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CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

ANNUAL REPORT

2009

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

OCTOBER 10, 2009

Printed for the use of the Congressional-Executive Commission on China



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CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA
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Preface

The Chinese Government has made economic development a priority, and lifted millions of people out of poverty, but Chinese Government policies and practices continue to violate the rights of Chinese citizens, and fall far short of meeting international standards. The Congressional-Executive Commission on China, which formally was established in 2000 by the legislation that granted China Permanent Normal Trade Relations (PNTR) as China prepared to enter the World Trade Organization (WTO), is mandated by law to monitor human rights, worker rights, and the development of the rule of law in China, as well as to maintain a database of information on Chinese political prisoners—individuals who have been imprisoned for exercising their civil and political rights protected under China's Constitution and laws or under China's international human rights obligations.

When China entered the WTO in 2001, the Chinese Government made commitments that were important not only for China's commercial development in the international marketplace, but also for the development of the rule of law at home. These commitments require that the Chinese Government ensure nondiscrimination in the administration of measures that are trade related, and publish promptly all laws, regulations, judicial decisions, and administrative rulings relating to trade. WTO accession and the Chinese Government's years of preparation for accession provided the impetus for many changes to China's legal system over the past two decades. Those changes, some of which have been significant, still have not produced a national legal system that is consistently and reliably transparent, accessible, and predictable. The Communist Party rejects the notion that the imperative to uphold the rule of law should preempt the Party's role in guiding the functions of the state. As this report shows, the Chinese Government's repressive tendencies at home undermine the credibility of its stated international commitments to create a more open society that provides greater respect for human rights, worker rights, transparency, and the rule of law.

The development of a stable China firmly committed to the rule of law and citizens' fundamental rights is in the national interest of the United States. Those rights include the freedoms of speech, assembly, association, religion, and other rights protected under China's Constitution and laws or under China's international human rights obligations. To ensure a positive, cooperative, and comprehensive U.S.-China relationship, China's leaders must demonstrate genuine commitment, not just in words but in deeds, to promoting the development of the rule of law, human rights, and

transparency in no less measure than they have prioritized economic development.

The imperative to uphold the rule of law, human rights, and transparency could not be more relevant than it is with respect to planned expansion of bilateral cooperation on climate change recently announced by the United States and China. The United States and China signed a Memorandum of Understanding (MOU) on July 28 that elevates cooperation on climate change in the relationship between the two countries and expands bilateral cooperation to accelerate the transition to a sustainable, low-carbon global economy. In the pursuit of such a goal, the integrity of scientific data and technical information must be preserved, free from censorship or manipulation for political or other purposes. Researchers, engineers, and scientists engaged in international collaborative projects must be free from concern about whether the information they share with a research partner today will be declared a state secret tomorrow, and whether they will face prosecution as criminals as a result. To maximize the potential for progress on climate change, Chinese officials must engage as allies, and not repress, environmental whistleblowers, a vigilant press, non-governmental organizations (NGOs), and human rights lawyers. Recently announced goals for U.S.-China cooperation and top-level business collaboration on clean technology can only be achieved if accompanied by reliable and consistent enforcement of intellectual property rights in China.

This report documents, in each of its sections, the challenges and opportunities that exist for China to create a more open society with greater respect for human rights, transparency, and the rule of law. The report also demonstrates the importance of the Commission's Political Prisoner Database, a unique, powerful, and publicly available resource on which the Commission relies for advocacy and research work, including the preparation of this Annual Report. The human rights issues underlying political imprisonment and detention are numerous. Instances of human rights violations and resulting imprisonment form a pattern of systematic repression—the Chinese Government should demonstrate its commitment to international standards by reversing this pattern.

The Commission intends that the detailed contents of this report may serve as a roadmap for progress. By documenting human rights violations in this report and in the Commission's Political Prisoner Database, by advocating in meetings with Chinese officials on behalf of political prisoners, by raising public awareness of human rights and rule of law issues, and by placing these issues on the agendas of bilateral and multilateral meetings, the United States Government establishes a baseline for measuring progress. Some of those who supported establishing permanent normal trade relations (PNTR) with China in 2000 believed that PNTR would improve the prospects that the Chinese Government would fulfill its commitments to international human rights standards—but the Chinese Government has yet to live up to those commitments. Holding the Chinese Government accountable to its international commitments and to its own laws, when those laws meet international standards, is an essential element of the roadmap for progress.

As the United States and China engage in bilateral and multilateral dialogues, the Commission urges Members of the U.S. Congress and Administration officials to monitor carefully Chinese Government positions and actions on issues critical to developing the rule of law, promoting transparency, and protecting human rights. The Chinese Government, for example, issued a National Human Rights Action Plan in 2009 that uses the language of human rights to cast an ambitious program for promoting the rights of its citizens. In meetings with Chinese officials, Members of the U.S. Congress and Administration officials should inquire about the Chinese Government's progress in translating words into action and securing genuine improvements for its citizens as set forth in the plan. To that end, this Annual Report and the information available on the Commission's Web site, *www.cecc.gov,* provide an abundance of resources.

GENERAL OVERVIEW

The Commission observed continuing human rights abuses and stalled development of the rule of law in China during the Commission's 2009 reporting year (October 2008 to October 2009). The level of repression increased in the Xinjiang Uyghur Autonomous Region (XUAR) and the Tibetan areas of China, as did the level of harassment of human rights lawyers and advocates, and restrictions on Chinese reporters. Repression of religious adherents continued. Across the areas the Commission monitors, these general themes emerged:

(1) Chinese leaders' increasing preoccupation with maintaining what they deem to be "social stability";

(2) more pronounced deficiencies in checks on state power, and in some cases the government's undoing of existing checks;

(3) the reversal of some trends toward greater transparency of and predictability in the legal system; and

(4) greater Chinese Government and Communist Party sophistication in co-opting the language of human rights and the rule of law to shape perceptions of China's record on these issues.

Maintaining Stability

The frequency of mass protests in China during the Commission's 2009 reporting year attracted attention throughout China and worldwide. Party leaders considered 2009 to be a sensitive year and set an even greater priority on maintaining social stability. As a result, central and local governments increased public security budgets and expanded mechanisms charged with "stability maintenance work." Offices charged with "stability maintenance" focused on developing "early warning systems" for social instability and expanding networks of "informants" at local levels.

Many protests were triggered when workers, farmers and other rural residents, or urban residents turned to laws and regulations to defend their interests against those of businesses, allegedly corrupt government officials, or both. Many such disputes resulted, for example, from complaints against industrial pollution, worker grievances, property disputes, uneven development, and wealth in-

equality. Citizens' appeals often included calls for fair and just government mediation. In some instances, more powerful and well-funded economic players took measures to cause the harassment and intimidation of local protesters. Local government officials in many cases justified taking police action against protesters by asserting that doing so helped to promote "economic development" and "defend social order." Police action against protesters in the name of maintaining order and "stability above all else" came to international attention in the past year as authorities forcefully suppressed a demonstration by Uyghurs in the XUAR capital of Urumqi on July 5, a day which also marked the start of violent clashes and attacks in the city.

The lack of adequate rule of law at the local level contributed to channeling social pressures toward administrative and Party officials for management or resolution, instead of through the judicial system. When economic disputes became protests, protesters often called on government officials to intervene on their behalf. The performance evaluation of officials, however, in part is based on the successful preemption or suppression of mass protests and petitioning as well as on achieving economic development targets. Such measures of government performance work against addressing the root causes of citizens' protests and against resolving disputes in a fair manner. Even though empowering the courts to fulfill their constitutional and lawful purpose would serve citizens' interests, officials fail to empower the courts. Government and Party officials are reluctant to bend to the rule of law, and the leadership fears that full implementation of the rule of law could unleash social forces that are beyond the capacity of the courts to control.

Checks on State Power

Deficiencies in institutional and legal restraints on state power became more pronounced during the Commission's 2009 reporting year. Serious abuses of fundamental human rights resulted in part from the weakness or absence of basic protections available to citizens through legal process. Even when procedural protections exist on paper, insufficient safeguards are in place to guarantee their implementation. For example, China's lower courts frequently seek instructions from higher courts before issuing decisions. This system of "instruction on request" undermines the fundamental purpose of the appellate process, and serves as an impediment to the development of administrative and judicial decisions supported by statements of legal reasoning. That, in turn, negatively impacts the public's faith in the integrity of legal institutions. During the 2009 annual session of the National People's Congress, delegates introduced a bill aimed at abolishing "instruction on request." The shortcoming, therefore, is not that officials have failed to identify the problem, or that a viable solution is out of reach. Rather, officials do not empower lower courts for the reasons noted above: the Party's unwillingness to bend to the rule of law, and the fear of unleashing social forces that are beyond the capacity of courts to control.

Even when laws on the books are well crafted, abuses arise. The presumption of guilt permitted under Chinese criminal law—especially in "politically sensitive" cases—confounds defense attorneys'

attempts to present evidence of innocence, to provide evidence that a defendant committed a lesser crime, or otherwise to mount an effective defense. To uphold the Chinese Government's domestic and international commitments to adhere to legal procedure, China needs a community of legal scholars and lawyers well trained in procedural law to represent citizens—even in "sensitive" cases. This report documents that China has such lawyers, but local judicial bureaus and lawyers associations have denied a number of them renewal of their professional licenses. Absent adequate legal and institutional constraints on state power, government authorities and unofficial personnel continued during the Commission's 2009 reporting year to monitor unlawfully and subject to periodic illegal home confinement social activists, dissidents, religious adherents, human rights lawyers, and their family members. Such unlawful activity increased during sensitive periods, such as during the 20th anniversary of the Tiananmen protests.

Predictability of the Legal System

The impetus for much of China's legal reform in the past two decades was its preparation for accession to the World Trade Organization in December 2001. Those changes, while significant, have not produced a national legal system that is consistently and reliably transparent, accessible, and predictable. The Communist Party rejects the notion that upholding the rule of law should preempt the Party's role in guiding the functions of the state.

The "crime" of disclosing state secrets exemplifies the limitations on the rule of law. Broad categories of information may be classified as state secrets, including information related to "economic and social development." Officials use this discretion to punish citizens for attempting to expose official abuse of power. For example, in 2005 officials sentenced Shi Tao, a journalist, to serve 10 years in prison for exposing a directive from propaganda officials concerning restrictions on media coverage of the 15th anniversary of the June 1989 Tiananmen protests. Officials had designated the directive "top secret." Individuals charged with illegally disclosing state secrets may mount a defense against the charge, but they cannot legally challenge the decision that classified the information as a state secret. A draft revision of the Law on Guarding State Secrets that the National People's Congress published for public comment earlier this year leaves broad criteria for classifying information as a "state secret" intact.

Even in the domain of commercial law, developments over the past year have shown how business disputes and commercial issues may have real consequences for human rights when the Chinese Government or Party perceives its interests to be threatened. The case of Rio Tinto, an Australian mining corporation whose employees Chinese authorities reportedly detained initially on allegations of possible violations of state secrets laws, and later on accusations of violating laws on commercial secrecy, is an example.

Extralegal detention remains a serious problem that endangers the legitimacy and predictability of the legal system, and violates a number of basic human rights. Chinese citizens, including petitioners, peaceful protesters, and individuals deemed "undesirable" by authorities, remain subject to arbitrary detention in extralegal

detention facilities such as secret jails and "law education classes." Some are held for nonmedical reasons in psychiatric hospitals. Authorities' use of unlawful detention varies periodically—it increases prior to significant events and anniversaries—and from area to area.

Shaping Perceptions

Chinese Government and Party officials displayed during the Commission's 2009 reporting year greater sophistication in co-opting the language of human rights and the rule of law to shape perceptions of China's record on these issues. The soaring influence of China's Internet and a greater focus on competing with international media in reporting on China have shaped the Party's strategy of control. The Chinese Government and Communist Party's official media expedite reporting on some events in order to influence mass media coverage. At the same time, the government increases censorship of unofficial information channels, such as the Internet. International journalists working in China face fewer restrictions than their domestic Chinese counterparts, but they continue to meet with harassment and their ability to function as an effective alternative to official "spin" sometimes is limited.

The Chinese Government continued to soften some rhetoric toward religion by articulating a "positive role" that religious communities in China should fulfill, but the government's language casts for religion the duty to build support for state economic and social goals. Officials and central government directives continued to warn against foreign groups "using religion" to "interfere" in China's "internal" affairs and to "sabotage" the country. The government continued to use legal measures to restrict rather than protect the religious freedom of Chinese citizens. Parents and guardians faced restrictions on their right to pass on religious education to children, and children remain subject to restrictions on their right to exercise the freedom of religion. The Chinese Government continued to deny its citizens the freedom to prepare and distribute religious texts. The government permitted and, in some cases, sponsored the social welfare activities of state-sanctioned religious communities, but in the past year, authorities also took steps to block some social welfare activities by unregistered religious groups.

The government has in the past year used institutional, educational, legal, and propaganda channels to pressure Tibetan Buddhists to modify their religious views and aspirations. Chinese officials adopted a more assertive tone in expressing determination to select the next Dalai Lama, and to pressure Tibetans living in China to accept only a Dalai Lama approved by the Chinese Government. Escalating government efforts to discredit the Dalai Lama and to transform Tibetan Buddhism into a doctrine that promotes government positions and policy have resulted instead in continuing Tibetan demands for freedom of religion and the Dalai Lama's return to Tibet.

In an apparent effort to shift attention from policy shortcomings in China, and to appeal to international support, authorities blamed a demonstration by Uyghurs in the XUAR capital of Urumqi on July 5 and strife in the region starting that day on the

"three forces" of terrorism, separatism, and religious extremism. Authorities also accused U.S.-based Uyghur rights advocate Rebiya Kadeer of orchestrating events on July 5—a charge she denied—and launched a media campaign to portray family members denouncing her.

China's global reach and expanding economy provide the government an array of international levers to penalize governments and organizations that criticize the Chinese Government's human rights record, as well as channels to reward international entities that support the government's positions, or who choose to remain silent. China's actions related to Darfur and Sudan, and China's reported surveillance and intimidation of non-governmental organizations, religious and spiritual adherents, and international activists may be understood, at least in part, in this context.

I. Executive Summary and Recommendations

FINDINGS AND RECOMMENDATIONS

A summary of findings follows below for each area that the Commission monitors. In each area, the Commission has identified a set of issues that merit attention over the next year, and, in accordance with the Commission's mandate, submits a set of recommendations to the President and the Congress for legislative or executive action.

FREEDOM OF EXPRESSION

Findings

- During the Commission's 2009 reporting year, Chinese officials continued to target for punishment or harassment citizens who peacefully expressed political dissent or who advocated for human rights, including those who voiced concern that the Chinese Government had not adequately investigated the cause of school collapses following the May 2008 Sichuan earthquake, those who sought to express support for Charter 08 (a document calling for political reform and greater protection of human rights), and those who spoke out about alleged official misconduct. Officials treated such activity as a threat to national security, charging citizens with the crime of "inciting subversion," or treated such activities as "defamation." Officials ordered other citizens to serve time in reeducation through labor, a form of administrative detention without trial. Local officials also abused police power, subjecting citizens to surveillance and interrogation, warning them not to speak to news media, taking citizens into custody, and restricting their freedom of movement.
- The government and Communist Party continued to apply a system of censorship and regulation of the news media and publishing industry that violates international human rights standards for free expression. Top Chinese officials continued to emphasize the media's subservient relationship to the government and Party. Party and government officials continued to punish journalists and news media (for example, by suspending publication) and to rely on prior restraints on publishing, including licensing and other regulatory requirements, to restrict free expression. Officials continued to view news media commercialization as serving official over public interests. They have expressed a desire to create a more market-friendly media to facilitate the spread of propaganda and China's "soft power."
- The government continued to promote a limited watchdog role for journalists and to support raising professionalism among journalists, but emphasized political loyalty as an important criterion.
- The increasing influence of China's Internet and a greater focus on competing with international media for reporting on China have led the Party to adapt its strategy of control by expediting the release of official reporting of some events in order

to shape mass media coverage, while at the same time increasing censorship of nonofficial channels of information.

- Foreign journalists reporting in China face fewer restrictions than domestic journalists but they still face harassment.
- While the Internet continued this past year to serve as a limited, but important, outlet for individual expression and criticism of government policies, the Chinese Government's regulation of the Internet and other electronic communications continued to violate international standards for free expression.
- Officials continued to shut down or block access to domestic and foreign Web sites based on those sites' political or religious content. Chinese authorities and companies offering Internet content in China continued to monitor, filter, and remove political and religious content from the Internet.
- Officials this past year also sought to strengthen their ability to monitor Internet users' online expression. They introduced and then backed away from a requirement that all computers in China be sold with pre-installed censorship software found to filter political and religious content and monitor individual computer behavior. Officials also began forcing news Web sites to require new users to provide their real name and identification number in order to post a comment.
- Officials continued this past year to describe campaigns to remove content as aimed at "vulgar" or pornographic content, but guidance issued by the government included political content as well.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

- Raise concerns with Chinese officials about their government punishing peaceful expression and preventing citizens from accessing information the government deems sensitive for political and religious reasons, under the guise of protecting national security or minors from pornography. Remind Chinese officials they are within their rights under international human rights standards to restrict freedom of expression to protect minors and national security, but that those standards also provide important limitations on such power.
- Support U.S. Government programs that encourage Chinese journalists to visit the United States for professional development and training on a wide range of topics, from the practice of journalism at U.S. news media and legal protections for journalists in the United States, to the role of the media in American society, history, and culture, and how courts decide cases involving Internet restrictions and freedom of expression. The Chinese Government has a stated interest in increasing the professionalism of Chinese journalists, and officials have both likened their Internet restrictions to purported similar policies in the United States, while also saying that the news media in China should learn more from the United States.

• Take steps to increase awareness by the American public and international community of the Chinese Government and Communist Party's controls over their own media and their subsidy of Chinese media expansion overseas, and urge China to allow international news media freer access in China. The Chinese Government has committed 45 billion yuan (US$6.6 billion) to subsidize the overseas development of central government and Party-controlled media such as People's Daily, Xinhua, and CCTV in order to expand the nation's soft power.
• Support U.S. Government programs that make available Chinese-language how-to guides on, for example, how to create a blog or how to access human rights Web sites. Support programs for both technologies and strategies that address problems implicit with China's online censorship, as well as effective means of making such technologies and strategies widely accessible and known by Chinese citizens.
• Support funding for Radio Free Asia and Voice of America news reporting and multi-dialect and multi-language broadcasting to China so that Chinese citizens have access to uncensored information about events in China and worldwide.
• Solicit input from U.S. Government agencies, non-governmental organizations, and private companies on best practices and possible legislation in order to ensure American companies are promoting free expression in China, and also consult similar initiatives being undertaken by other countries, including the European Union. The Chinese Government's recent effort to require all computer makers, including those based in the United States and other countries, to include filtering software that blocks political and religious content in all computers sold in China, is a reminder that Chinese officials continue to seek ways of co-opting technology companies in assisting in online censorship.
• In official correspondence with Chinese counterparts, include statements calling for the release of political prisoners named in this report who have been punished for peaceful expression, including: Tan Zuoren (earthquake activist facing charges of inciting subversion), Huang Qi (earthquake activist facing charges of possessing state secrets), Liu Xiaobo (prominent intellectual and signer detained in connection with Charter 08), and other prisoners included in this report and in the Commission's Political Prisoner Database.

WORKER RIGHTS

Findings

• Workers in China still are not guaranteed either in law or in practice full worker rights in accordance with international standards, including, but not limited to, the right to organize into independent unions. The All-China Federation of Trade Unions (ACFTU), the official union under the direction of the Communist Party, is the only legal trade union organization in China. All lower-level unions must be affiliated with the ACFTU. While the ACFTU has become more active, focusing on unionization of foreign-funded firms and organization of mi-

grant workers, and pushing the expansion of collective contracts, the ACFTU continues to be dominated by the Communist Party with its overarching political concerns of social stability and economic growth.

• Labor strife increased during the Commission's 2009 reporting year. With the economic crisis, Chinese workers have increased pressure on the Chinese Government to force employers to pay wages in a timely manner, improve working conditions, and comply with new labor legislation. Labor conflict occurred on a larger scale and was often more organized and more legalistic than in the previous reporting year. Workers were also increasingly strategic in their escalation of strike activity, often moving quickly from shopfloor disputes to public demonstrations to press for local government intervention in a workplace dispute.

• Despite legislative activity in recent years that increased legal protections for workers, in the wake of the global economic crisis, the government is now focused on maintaining employment, often to the detriment of implementation and enforcement of the new labor codes. Local implementation measures for new labor laws that took effect in 2008 (i.e., the PRC Labor Contract Law, PRC Employment Promotion Law, and PRC Labor Dispute Mediation and Arbitration Law) are concentrated in the south and southeast. Many of these local measures are emanating from the judicial system rather than from local legislative or administrative units. Many of these judicial guiding opinions and measures are focused on addressing unemployment and investment flows.

• With the large increase in labor disputes since 2008, the government has put increased emphasis on extrajudicial dispute resolution and flexibility in resolution procedures, especially encouragement of mediation at lower levels and cooperation between levels of government (e.g., cooperation between province and city, city and county, etc.) to limit the social and political impact of large-scale disputes.

• Proactive local governments have passed regulations that offer special incentives to firms that mitigate layoffs. At the same time, they are also compensating workers in the wake of enterprise shutdowns and bankruptcies.

• Informalization of the Chinese labor force accelerated this year as firms adopted measures to reduce the costs of formal employees. Widespread use of subcontracted workers and temporary workers continues. Informal workers often suffer substandard working conditions, nonpayment of wages, and exclusion from social insurance programs.

• The central and local governments continued work on social insurance reform, especially national legislation to set broad goals and local legislation and policy that expand social insurance to rural migrants and increase the "portability" of social insurance benefits for mobile workers.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

- Support projects promoting legal reform intended to ensure that labor laws and regulations reflect international norms. Prioritize projects that do not focus only on legislative drafting and regulatory development, but that ensure that implementation produces outcomes for workers that reflect real improvements, and measure progress in terms of compliance with international norms at the grassroots.
- Support projects that enhance the professionalization of the dispute resolution process, including training of ACFTU officials, lawyers, human resource managers, arbitrators, and mediators. Prioritize programs that target the enhancement of the role of non-governmental organizations (NGOs) in the dispute resolution process.
- Continue to support multi-year pilot projects that showcase the experience of collective bargaining in action for both Chinese workers and ACFTU officials. Where possible, prioritize programs that demonstrate the ability to conduct collective bargaining pilot projects even in factories that do not have an official union presence.
- Support the production and distribution in various formats (print, online, video, etc.) of Chinese-language how-to materials on conducting elections of worker representatives and collective bargaining.
- Support projects that prioritize the large-scale compilation and analysis of Chinese labor dispute litigation and arbitration cases, leading ultimately to the publication and dissemination of Chinese-language casebooks that may be used as a common reference resource by workers, arbitrators, judges, lawyers, employers, unions, and law schools in China.
- Support capacity-building programs to strengthen Chinese labor and legal aid organizations involved in defending the rights of workers.
- Support projects that enhance the labor inspection process in China. Prioritize projects that involve multiple actors, including labor and legal aid organizations and ACFTU officials, as well as representatives of the media and government officials.

CRIMINAL JUSTICE

Findings

- Extralegal detention remains a serious problem. Chinese citizens, including petitioners, peaceful protesters, and other individuals considered to be "undesirable" by authorities, continue to be arbitrarily detained in extralegal detention facilities, such as "black jails," "law education classes," and psychiatric hospitals for nonmedical reasons.
- Government authorities and unofficial personnel persisted in unlawfully monitoring and subjecting to periodic illegal home confinement certain groups, including activists, dissidents, religious adherents, human rights lawyers, and their family mem-

bers, particularly during sensitive periods, such as the 20th anniversary of the Tiananmen protests.

- The rights of criminal suspects and defendants continued to fall far short of the rights guaranteed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, as well as rights provided for under China's Criminal Procedure Law and Constitution.
- While the revised Lawyers Law reportedly has led to some improved access to detained clients in certain jurisdictions, lawyers continued to confront obstacles in meeting with their clients, particularly in politically sensitive cases. Some suspects and defendants in sensitive cases were not able to have counsel of their own choosing; some were compelled to accept government-appointed defense counsel.
- The Chinese Government released its first-ever human rights action plan in April, which contains encouraging policy commitments with respect to, among other things, fair trial rights and detainee rights.
- There was a spate of unnatural deaths in detention centers during the first few months of 2009, which prompted the Supreme People's Procuratorate to launch an investigation and review of management in China's detention centers.
- Although it is unlawful under Chinese law to obtain confessions and other evidence through torture, such evidence is nonetheless admissible in criminal trials. The Supreme People's Procuratorate announced in August that it was planning to issue a regulation providing that confessions obtained through torture would no longer be admissible in death penalty cases.
- In June, Beijing municipality announced that by the end of 2009 it would cease executing prisoners by gunshot, but instead would use lethal injections. The Supreme People's Court indicated that eventually all executions nationwide will be carried out by lethal injection.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

- Raise with Chinese officials the issue of black jails and other secret detention facilities, and press the Chinese Government to adopt the recommendation of the UN Committee against Torture to investigate and disclose the existence of such facilities, as a first step toward abolishing such forms of extralegal detention. Ask the Chinese Government to extend an invitation to the UN Working Group on Arbitrary Detention to visit China.
- Call on the Chinese Government to provide the international community with a specific timetable for its ratification of the International Covenant on Civil and Political Rights, which it signed in 1998.
- Urge the Chinese Government to amend its Criminal Procedure Law to reflect the enhanced protections and rights for

lawyers and detained suspects contained in the revised Lawyers Law, and ensure its effective implementation.
• Ask the Chinese Government what measures it is taking to ensure that the laudable policy commitments with respect to fair trial rights and detainee rights contained in its 2009–2010 National Human Rights Action Plan are translated into laws and regulations, and what steps it will take to ensure their successful implementation.
• Urge Chinese officials to take all necessary measures to guarantee that evidence obtained through torture or other illegal means is inadmissible in all criminal trials.

FREEDOM OF RELIGION

Findings

• The Chinese Government continued during the Commission's 2009 reporting year to strictly control religious practice and repress religious activity outside of state-approved parameters. Local governments implemented measures to prevent "illegal" religious gatherings and to curb other "illegal" religious activities, in some cases destroying sites of worship and detaining or imprisoning religious believers.
• In the past year, government efforts to discredit the Dalai Lama and to transform Tibetan Buddhism into a doctrine that promotes government positions and policy escalated, resulting in continuing Tibetan demands for freedom of religion and the Dalai Lama's return to Tibet. Buddhist communities outside the tradition of Tibetan Buddhism also faced continued government controls, and unregistered Buddhist temples remained subject to closure and demolition by government authorities. Catholic bishops in China's unregistered church community remained in detention, in home confinement, under surveillance, in hiding, or in unknown whereabouts, while authorities strengthened rhetoric on the state-controlled Catholic church's independence from the Holy See. The government maintained its longstanding ban against the Falun Gong spiritual movement and other religious and spiritual groups deemed to be cults, subjecting some members to detention, imprisonment, and other abuses. Repression of Islam in the Xinjiang Uyghur Autonomous Region (XUAR) worsened as authorities strengthened security campaigns targeting "religious extremism," and outside the XUAR, the government also maintained broad controls over the practice of Islam. The government continued to subject registered Protestant congregations to tight state control over their internal affairs and officials continued to target some unregistered Protestant churches for closure and to harass, detain, or imprison some church leaders and members. Authorities maintained restrictions over the activities of registered Taoist priests, and unregistered Taoist priests were subject to penalties for failing to submit to state control. Other religious and spiritual communities remained without legal recognition to practice their faith.
• During the Commission's 2009 reporting year, the government also continued to use legal measures to restrain, rather

than protect, the religious freedom of all Chinese citizens. Children faced continued restrictions on their right to freedom of religion, and parents and guardians faced restrictions on their right to impart a religious education to their children. The Chinese Government continued to deny its citizens the freedom to prepare and distribute religious texts. The government permitted, and in some cases, sponsored, the social welfare activities of state-sanctioned religious communities, but in the past year, authorities also took steps to block some social welfare activities by unregistered religious groups.

- The Chinese Government and Communist Party in the past year continued to affirm basic policies of control over religious practice. Authorities continued to soften some rhetoric toward religion by articulating a "positive role" for religious communities in China, but used this sentiment to bolster support for state economic and social goals. At the same time, officials and central government directives continued to warn against foreign groups "using religion" to "interfere" in China's affairs and "sabotage" the country.
- The Chinese Government's legal and policy framework for religion violates the protections for freedom of religion set forth in Article 18 of the Universal Declaration of Human Rights, Article 18 of the International Covenant on Civil and Political Rights, and other international human rights instruments. Although the PRC Constitution guarantees that all citizens enjoy "freedom of religious belief," it limits citizens' ability to exercise their beliefs by protecting only "normal religious activities," a vaguely defined term in both law and practice that has been used as a means to suppress forms of religious activity protected under international human rights law. Although the national Regulation on Religious Affairs and local government regulations provide a measure of protection for some religious activities, such protection is limited in scope and applies only to state-sanctioned religious communities.
- Chinese officials harassed, detained, and in some cases, physically abused attorneys who defended practitioners of the banned spiritual movement called Falun Gong and members of unregistered Protestant churches. The Commission observed cases of procedural irregularities and violations in criminal cases involving religious practitioners.
- The Communist Party's 6–10 Office, an extralegal security force created to enforce the ban against Falun Gong, also actively targeted other banned groups deemed by the government to be "cult organizations," including groups of Protestant and Buddhist origin. The Commission documented various efforts by the 6–10 Office to suppress these groups, including propaganda campaigns, surveillance and intelligence operations, as well as detentions and imprisonment.
- Despite creating space for some citizens to practice their religion within government-approved parameters, where some, but not all, Chinese citizens are allowed to do so, and where members of China's five government-sanctioned religious communities remain subject to tight controls over their affairs, the

Chinese Government has failed in its obligation to protect Chinese citizens' right to freedom of religion.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

- Call on the Chinese Government to remove its policy framework of recognizing only select religious communities for limited government protections and to guarantee to all citizens freedom of religion in accordance with Article 18 of the Universal Declaration of Human Rights.
- Call for the release of Chinese citizens confined, detained, or imprisoned in retaliation for pursuing their right to freedom of religion (including the right to hold and exercise spiritual beliefs). Such prisoners include Jia Zhiguo (unregistered Catholic bishop whom authorities detained in March 2009 in connection with his religious activities independent of the state-controlled Catholic Patriotic Association), Phurbu Tsering (Tibetan Buddhist teacher and head of a Tibetan Buddhist nunnery whom authorities brought to trial in April 2009 on a weapons charge his lawyers said involves coerced confession and insufficient evidence), Shi Weihan (bookstore owner and Protestant house church leader sentenced in 2009 to three years in prison for illegal operation of a business after authorities accused him of illegally printing and distributing Bibles), Xu Na (detained for possessing documents and computer disks containing Falun Gong materials and sentenced in 2008 to three years in prison for "using a cult organization to undermine the implementation of the law"), Yusufjan and Memetjan (university students who are members of a Muslim religious group and were detained in May when members of the group met on a university campus), as well as other prisoners mentioned in this report and in the Commission's Political Prisoner Database.
- Support non-governmental organizations that collect information on conditions for religious freedom in China and that inform Chinese citizens of methods to defend their right to freedom of religion against Chinese Government abuses.
- Support organizations that can provide technical assistance to the Chinese Government in drafting legal provisions that protect, rather than restrain, freedom of religion for all Chinese citizens.

ETHNIC MINORITY RIGHTS

Findings

- The Chinese Government continued during the Commission's 2009 reporting year to implement policies that undermine ethnic minority citizens' rights. The government repressed expressions of ethnic identity perceived to challenge government authority, especially in the Xinjiang Uyghur Autonomous Region, the Tibet Autonomous Region and other Tibetan areas, and the Inner Mongolia Autonomous Region. While the Chinese Government maintained some protections in law and practice for

citizens it designates as ethnic minorities, shortcomings in the substance and implementation of Chinese policy continued to prevent ethnic minorities from exercising their rights in line with domestic law and international human rights standards. Ethnic minorities did not enjoy "the right to administer their internal affairs," as provided for under the PRC Regional Ethnic Autonomy Law. [See Xinjiang—Findings, and Tibet—Findings in this section for additional information.]

- In the aftermath of demonstrations in 2008 and 2009 by Tibetans and Uyghurs that highlighted systemic problems in state policies toward ethnic minorities and ethnic issues, the central government continued to attribute outstanding tensions to its citizens while asserting the effectiveness of government policies and amplifying publicity in their support.
- In the past year, the government continued to implement development policies that prioritize state economic goals over protecting ethnic minorities' rights and guaranteeing ethnic minority participation in decisionmaking processes. It also continued in the past year to impose controls over how individuals and communities define their ethnicity, interpret their history, and preserve their culture and language.
- Authorities in the Inner Mongolia Autonomous Region continued to implement measures that undermine Mongol traditions and livelihoods and punish people who defend Mongols' rights or who express dissent.
- The Chinese Government pledged to increase protection for the rights of ethnic minorities in its 2009–2010 National Human Rights Action Plan (HRAP). While the HRAP outlines measures to support legislation, governance, education, personnel training and employment, language use, and cultural and economic development among ethnic minorities, domestic and overseas observers have questioned the likely impact of the HRAP amid the Chinese Government's poor human rights record, including in the area of ethnic minorities' rights.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

- Fund rule of law programs and exchanges that raise awareness among Chinese leaders of different models for governance that protect ethnic minorities' rights and allow them to exercise meaningful autonomy over their affairs.
- Support non-governmental organizations' efforts to continue or develop programs that address ethnic minority issues within China, including training programs that build capacity for sustainable development among ethnic minorities, programs to protect ethnic minority languages and cultural heritage, and programs that research rights abuses in the Inner Mongolia Autonomous Region.
- Call on the Chinese Government to release people confined, detained, or imprisoned for advocating for the rights of ethnic minority citizens, including Mongol rights advocate Hada (serving a 15-year sentence after pursuing activities to promote

Mongols' rights and democracy) and other prisoners mentioned in this report and in the Commission's Political Prisoner Database.
• Support organizations that can monitor the Chinese Government's compliance with stated commitments to protect ethnic minorities' rights, including the commitments articulated in the government's 2009–2010 National Human Rights Action Plan. Provide support for organizations that can provide assistance in implementing programs in a manner that draws on participation from communities involved and ensures the protection of their rights.

POPULATION PLANNING

Findings

• The Commission found increasing evidence, including from official sources, that Chinese authorities continue to employ compulsory abortion and sterilization as an official policy instrument on a large scale in over a third of China's provincial-level jurisdictions. In some areas, authorities specifically targeted migrant workers for forced abortions.
• In some areas, government campaigns to force women with "out-of-plan" pregnancies to undergo abortion or sterilization procedures reportedly included government payments to informants. Some local governments also linked job promotion with an officials' ability to meet or exceed population planning targets. Officials received points on their performance evaluations for overseeing abortions of "out-of-plan" pregnancies.
• The demographic impact of China's population planning policies continues to manifest, most notably in the country's highly skewed sex ratio. A study published in the British Medical Journal estimates that in 2005, there was an excess of 32 million males under the age of 20 in China. The study primarily attributes this "imminent generation of excess males" to the practice of sex-selective abortion.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

• Urge Chinese officials to cease coercive measures, including forced abortion and sterilization, to enforce birth control quotas. Urge the Chinese Government to dismantle coercive population controls, while supporting programs that inform Chinese officials of the importance of respecting citizens' diverse beliefs.
• Urge Chinese officials to release Chen Guangcheng, imprisoned in Linyi city, Shandong province, after exposing forced sterilizations, forced abortions, beating, and other abuses carried out by Linyi population planning officials.
• Call on Chinese officials to permit greater public discussion and debate concerning population planning policies and to demonstrate greater responsiveness to public concerns. Impress upon China's leaders the importance of promoting legal

aid and training programs that help citizens pursue compensation and other remedies against the state for injury suffered as a result of official abuse related to China's population planning policies. Provisions in the PRC Law on State Compensation provide for such remedies for citizens subject to abuse and personal injury by administrative officials, including population planning officials. Support the development of programs and international cooperation in this area.

FREEDOM OF RESIDENCE

Findings

- The Chinese Government continued to enforce the household registration (*hukou*) system it first established in the 1950s. This system limits the right of Chinese citizens to choose their permanent place of residence. Regulations and policies that condition legal rights and access to social services on residency status have resulted in discrimination against rural *hukou* holders who migrate to urban areas for work.
- Authorities continued to relax certain *hukou* restrictions for Chinese citizens who met specific requirements. National-, provincial-, and municipal-level *hukou* measures enacted this past year aimed to promote employment amid the current economic downturn, but excluded most migrant workers who did not have a college education or special skills.
- The government continued to impose certain restrictions on Chinese citizens' right to travel that violated international human rights standards. Authorities placed a number of Chinese activists under home confinement and surveillance. Some Chinese citizens were prevented from leaving mainland China, while other Chinese individuals were prevented from entering mainland China, Hong Kong, and Macau.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

- In international discussions on internal migration, highlight the role played by China's household registration system.
- Support programs and organizations that defend migrant workers' rights and encourage policy debates on household registration system reforms.
- Call on the governments of the Hong Kong and Macau Special Administrative Regions to cease the practice of denying entry to Chinese democracy activists or dissidents from overseas.

STATUS OF WOMEN

Findings

- Chinese officials continued to pursue policies that aim to protect women's rights. China's sexual harassment and domestic violence-related legal framework saw further improvements.

• The Chinese Government's implementation of some domestic laws and policies related to women's rights continued to fall short of international standards. Problems such as lack of transparency and control over information flows have impeded some of the government's efforts to fulfill these commitments.
• Gender inequalities continue to be reflected in women's low levels (relative to men) of political participation, unequal access to education, limited access to healthcare, and relatively weaker protection of property and inheritance rights.
• Gender-based discrimination in China in areas such as wages, recruitment, retirement age, and sexual harassment remains, but the government has made efforts to eliminate gender-based discrimination and promote women's employment.
• The differences in mandatory retirement ages for men and women in China continue to impede the career advancement of some women, especially those in senior positions and women with higher educational levels. The lower compulsory retirement age for women also contributes to hiring discrimination. Currently, retirement ages for male and female government and Party officials are 60 and 55, respectively, while retirement ages for male and female workers in general are 60 and 50, respectively.
• Hainan province became the first province to require that courts at all levels establish a collegial panel of judges dedicated to the protection of women's rights.

Recommendation

Members of the U.S. Congress and Administration officials are encouraged to:

• Support programs in China that remove barriers to educational opportunities for girls, especially in rural areas; that raise awareness among judicial and law enforcement personnel regarding domestic violence, sexual harassment, and sexual violence; and that expand women's leadership training through U.S.-China exchanges and international conferences.

HUMAN TRAFFICKING

Findings

• The legal definition of trafficking under Chinese law does not conform to international standards. Under Article 240 of the PRC Criminal Law, the trafficking of persons is defined as "abducting, kidnapping, buying, trafficking in, fetching, sending, or transferring a women or child, for the purpose of selling the victim." This definition is narrower in scope than the definition provided in Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which China has not yet signed. According to the U.S. Department of State's 2009 Trafficking in Persons Report (TIP Report), China's definition "does not prohibit non-physical forms of coercion, fraud, debt bondage, involuntary servitude, forced labor, or offenses committed against male victims" and

"does not automatically regard minors over the age of 14 who are subjected to the commercial sex trade as victims."

- China remains a country of origin, transit, and destination for human trafficking and abductions. The majority of trafficking cases are domestic and involve trafficking for sexual exploitation, forced labor, and forced marriage.
- Although the majority of trafficking cases take place within China's borders, human traffickers—also called snakeheads—continue to traffic Chinese women and children from China to locations overseas, including to Africa, Asia, Europe, Latin America, the Middle East, and North America.
- Women and girls from foreign countries, including North Korea, Vietnam, and Burma, continue to be trafficked into China, and forced into marriages, employment, and sexual exploitation.
- The Chinese Government made some efforts to eliminate trafficking and comply with trafficking-related international human rights standards. Authorities during the past year continued to investigate, prosecute, and prevent trafficking crimes, especially domestic trafficking cases, and those involving the abduction of women for forced marriage or commercial sexual exploitation. Officials also continued to take steps to increase international cooperation and improve China's anti-trafficking legal framework.
- The State Council issued the National Plan of Action on Combating Trafficking in Women and Children (2008–2012) (NPA) in December 2007. In March 2009, 29 ministries, central government offices, and Party organizations jointly issued implementation regulations for the NPA. The NPA and several similar provincial-level implementation plans and opinions issued in 2008 and 2009 focus mainly on women and children.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

- Urge the Chinese Government to sign and ratify the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, to revise the government's definition of trafficking, to create a comprehensive anti-trafficking law to align with international standards, and to abide by its international obligations with regard to North Korean refugees who become trafficking victims.
- Support legal assistance programs that advocate on behalf of both foreign and Chinese trafficking victims.
- Call on the Chinese Government to provide more services for trafficking victims, particularly for Chinese citizens trafficked for labor exploitation and trafficked abroad.
- Support international and cross-border mechanisms that can help enhance the Chinese Government's collaboration with other countries, regions, and international organizations on victim identification, repatriation, and criminal prosecution.

NORTH KOREAN REFUGEES

Findings

- Central and local authorities sustained efforts to locate and forcibly repatriate North Korean refugees hiding in China. Trafficking of North Korean women along the Chinese border into forced marriages and the sex industry continued in the Commission's 2009 reporting year. The Chinese Government refuses to provide North Korean trafficking victims with legal alternatives to repatriation.
- Chinese local authorities near the border with North Korea continued to deny access to education and other public goods for the children of North Korean women married to Chinese citizens. Chinese Government officials contravened guarantees under the PRC Nationality Law (Article 4) and the PRC Compulsory Education Law (Article 5) by refusing to register the children of these couples to their father's *hukou* (household registration) without proof of the mother's status.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

- Establish a task force to examine and support the efforts of the UN High Commissioner for Refugees to gain unfettered access to North Korean refugees in China, and to recommend a strategy for creating incentives for China to honor its obligations under the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol by desisting from the forced repatriation of North Korean refugees, and terminating the policy of automatically classifying all undocumented North Korean border crossers as "illegal economic migrants."
- Urge Chinese officials to ensure that household registration, and the public goods such as access to education that registration provides, are promptly granted to children born to North Korean women in cohabitation with Chinese citizens, in accordance with the PRC Nationality Law (Article 4) and the PRC Compulsory Education Law (Article 5).

PUBLIC HEALTH

Findings

- The Chinese Government launched a 10-year medical reform plan, which includes promises for reform in the areas of medical insurance, pharmaceuticals, public health services, and public hospitals.
- Discrimination and social stigma against people living with medical conditions such as infectious disease, physical disability, and mental illness remain commonplace.
- Chinese non-governmental organizations and individual advocates continue to play an important role in raising awareness about medical conditions and the rights of those living with them; however, Chinese authorities continue to suppress health-related activism.

• Individuals with varying medical conditions continued to bring employment discrimination lawsuits under antidiscrimination provisions in the PRC Employment Promotion Law that took effect in 2008.
• Due to insufficient public health services in rural areas and a lack of government transparency and public awareness regarding disease outbreaks, China's rural population has proved to be particularly vulnerable to the spread of hand-foot-mouth disease, tuberculosis, HIV/AIDS, and other infectious diseases this year.
• The Chinese Government's efforts to prevent and control the spread of influenza A(H1N1)—commonly referred to as "swine flu"—have prompted discussion about changes in its handling of disease outbreaks.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

• Call on the Chinese Government to ease repression of health-related activism by individuals and non-governmental organizations and provide more support to U.S. organizations that address public health issues in China.
• Urge Chinese officials to focus attention on effective implementation of the PRC Employment Promotion Law and related regulations that prohibit discrimination against persons living with HIV/AIDS, hepatitis B virus, and other illnesses in hiring and in the workplace.
• Urge the Chinese central government to work with local governments to ensure effective implementation of the healthcare reform plan. Local government cooperation is critical in achieving the projected goal of healthcare access for the entire population by the year 2020.

CLIMATE CHANGE AND ENVIRONMENT

Findings

• In 2007, China surpassed the United States to become the world's top emitter of carbon dioxide. While President Hu Jintao has stated that China will "endeavor to cut carbon dioxide emissions per unit of GDP by a notable margin by 2020 from the 2005 level," the Chinese Government has not agreed to carbon emission caps. A top Chinese climate change policymaker reportedly recently indicated that China's carbon emissions may continue to rise until 2050. At the same time, the Chinese Government has initiated a wide range of measures, especially to improve energy efficiency and lower energy intensity, the amount of energy expended per unit of gross domestic product. In addition, the Chinese Government actively has sought investment from developed countries for projects related to the Clean Development Mechanism that can provide "carbon credits" to developed countries that have agreed to emission reduction targets in international agreements.

• Weaknesses in China's environment-related implementation and enforcement capacity will pose significant challenges to efforts to improve energy efficiency and transform its economy into a "low-carbon economy." In addition, China's capacity reliably to measure, report, and verify its greenhouse gas mitigation actions remains uncertain.
• Limitations on citizen access to information, including pollution and related data, hinder efforts to raise environmental awareness, promote public participation, and develop incentives for compliance. Limits on access to remedies for environmental harms, selective enforcement, limited public participation in decisionmaking processes, and selective suppression of citizen demands for a cleaner environment also weaken compliance efforts and contribute to citizen dissatisfaction. Party and government officials have continued to implement policies restricting the operations of many NGOs.
• The priority attached to economic development has led to compliance challenges that hinder the realization of some of the government's environmental protection goals. Lack of accountability, corruption, local governmental protectionism, and malfeasance impede implementation and enforcement.
• Without adequate procedural protections, implementation of environmental and climate change mitigation policy may place the rights of vulnerable groups, including the rural poor and ethnic minorities, especially nomadic herders, at risk. Hydroelectric dam construction, for example, has been accompanied by lack of attention to environmental impact assessment processes mandated by law, and by reports of the infringement upon the fundamental rights of local populations. Planned rapid acceleration of the pace of development of nuclear and hydroelectric projects heightens these concerns going forward. China's planned efforts to increase carbon sequestration in grassland areas shines an additional spotlight on the need to guarantee the rights of nomadic herders who inhabit those areas.
• During the Commission's 2009 reporting year, official sources reported environmental protection successes, including the continued decline of sulfur dioxide emissions and chemical oxygen demand. Regulatory and institutional developments included issue of the Planned Environmental Impact Assessment Regulation, the introduction of environmental pollution liability insurance on a trial basis, the establishment of "environmental courts" in a few cities on a trial basis, the establishment of environmental "police" (environmental protection subbureaus within the public security bureaus) on a trial basis, and some limited progress toward the development of a "public interest litigation" system. The announcement of a draft PRC Tort Liability Law may in the future improve China's framework for environment-related compensation suits.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

- Support U.S. Government cooperation with China and other educational programs geared toward raising awareness among Chinese officials of how to implement climate change mitigation and adaptation strategies and environmental protection policies effectively without at the same time transgressing on fundamental rights.
- Call upon the Chinese Government to cease punishing citizens, such as Wu Lihong and Sun Xiaodi, for their grassroots environmental activism, or for their utilizing official and institutionalized channels to voice their environmental grievances or to protect their rights.
- Support U.S. Government engagement with relevant ministries in developing China's capacity to reliably measure, report, publicize, and verify emission reduction strategies and techniques. Encourage Chinese officials to make government and expert research reports regarding climate change and its impacts in China public and easily available.
- Invite domestic environmental civil society organizations and urge the Chinese Government to invite Chinese environmental civil society organizations as participants or observers in bilateral and multilateral climate change and environmental protection projects and dialogues. Invite Chinese local-level leaders, including those from counties, townships and villages, to the United States to observe U.S. public policy practices and approaches to problem solving. Engage local Chinese officials in their efforts to reconcile development and environmental protection goals. Call upon U.S. cities with sister-city relationships in China to incorporate environmental rights awareness, environmental protection, and climate change components into their programs. When making arrangements for travel to China, request meetings with officials from central and local levels of the Chinese Government to discuss environmental governance and best practices.
- Support multilateral exchanges regarding environmental enforcement, environmental insurance, criminal prosecution of serious environmental infringements, and public interest litigation mechanisms. Encourage Chinese leaders to strengthen environmental impact assessment processes and citizen participation in those processes.
- Establish a Working Group on Climate Change Policy Implementation, the Rule of Law, and Human Rights in accordance with Section II(B) of the Memorandum of Understanding to Enhance Cooperation on Climate Change, Energy and Environment between the Government of the United States of America and the Government of the People's Republic of China (the MOU) signed during the U.S.-China Strategic and Economic Dialogue held in July 2009. (Section II(B) of the MOU states that, "[t]he Participants may establish working groups or task forces involving relevant ministries as necessary to support the

objectives of the Climate Change Policy Dialogue and Cooperation.")

CIVIL SOCIETY

Findings

• The Chinese Government continued to control civil society in China in ways that contravene international standards. Chinese citizens who sought to establish non-governmental organizations (NGOs) and organize around issues deemed by officials to be sensitive faced obstacles, and officials in some cases intimidated, harassed, and punished NGOs and citizen activists.
• NGOs continue to face challenges fulfilling registration requirements. NGOs that do not fulfill these requirements are left vulnerable to official pressure and bereft of legal protection.
• The number of NGOs participating in legal and policymaking activities in areas that are not politically sensitive continues to increase gradually. At the same time, NGOs and individuals who work on politically sensitive issues continue to face challenges.
• In 2009, at least one locality (Beijing) reportedly passed measures stipulating that NGOs based in the area will no longer need to obtain a sponsor organization when applying for government registration. In place of the sponsorship requirement, 10 city-level government-organized NGOs will manage Beijing-based NGOs legally registered with and approved by the Beijing city government.
• In July, Beijing officials fined and then shut down Open Constitution Initiative (OCI)—a Beijing-based academic research and legal assistance organization, and detained two of its employees, including the center's cofounder and legal representative, Xu Zhiyong. OCI was well known for taking on cutting-edge legal issues and cases, such as its investigation into the cause of the Tibetan protests and rioting in March 2008. Also in July, officials reportedly targeted Beijing Yirenping Center, an NGO that works to raise awareness about public health risks and eliminate discrimination against those who carry certain diseases.
• Volunteer activities related to the May 2008 Sichuan earthquake reportedly have dissipated, and government officials have accused some volunteers of "stirring up protests" by victims' families.
• Several recent natural disasters, including the snowstorm in southern China in early 2008 and the May 2008 Sichuan earthquake, contributed to an unprecedented spike in charitable giving. The government's limited capacity to handle and manage these donations, particularly during the months after the May 2008 Sichuan earthquake, exposed flaws in China's charity system and resulted in public demands for charity reform.
• In December 2008 and February 2009, the Ministry of Finance, the State Administration of Taxation, and the Ministry of Civil Affairs issued circulars detailing new qualifications for

legally registered NGOs to obtain tax-exempt status. Under the new guidelines, provincial-level governments and the central government will be in charge of verifying and approving the tax-exempt status of government-registered NGOs.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

- Strengthen U.S. Government support of public-private partnerships involving governments, businesses, media, and communities that will build social networks for NGOs and individuals and cultivate social entrepreneurship in China.
- Develop a comprehensive strategy consistent with U.S. foreign assistance policy to bolster the U.S. Agency for International Development's activities in China.
- Take measures to facilitate the participation of Chinese citizens who work in the NGO sector in relevant international conferences and forums, and support training opportunities in the United States to build their leadership capacity in nonprofit management, public policy advocacy, strategic planning, and media relations.

INSTITUTIONS OF DEMOCRATIC GOVERNANCE

Findings

- The Communist Party continues to exercise control over political affairs, government, and society through networks of Party committees, which exist at all levels in government, legislative, judicial, and security organs; major social groups (including unions); enterprises; and the People's Liberation Army.
- Chinese leaders made repeated public statements emphasizing the leading role of the Party, the need to adhere to China's unique style of "socialist democracy," and the impossibility of implementing "Western-style" democracy with a separation of powers and competing political parties. Isolated experiments with intra-party democracy are taking place around the country with high-level Communist Party support.
- During the Commission's 2009 reporting year, the Party created additional organizations to "maintain social stability." The Party expanded in 2009 the number of "stability maintenance offices" and "stability maintenance work leading groups" across the country at the central, provincial, municipal, county, township, and neighborhood levels, and even in some enterprises.
- Village elections measures continued to expand, and Chinese legislators included revising the PRC Organic Law on Villagers' Committees in the National People's Congress Standing Committee's five-year legislative agenda. Problems continue to plague village elections, and corruption at the village level remains a concern.
- In 2009, some Chinese Government agencies and other state institutions continued efforts to implement the Regulations on Open Government Information (OGI Regulation). Open government information regulations and high-level efforts to increase

accountability and transparency at the local level, in principle, have the potential to improve government openness, but implementation has been problematic.
- Public hearings and other processes appear to offer some opportunities for public engagement. Questions remain regarding the depth and breadth of participation, and the process of compiling, assessing, and incorporating public input is still not transparent.
- Citizens and social groups were proactive in expressing demands for democratic reforms and human rights protections to be undertaken by the Party and Chinese Government, but these requests were repeatedly met with official reprisal, including harassment, detention, and in some cases, prison sentences.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:
- Support programs that aim to reduce corruption in people's congress and village committee elections, including expansion of domestic election monitoring systems.
- Support projects that seek to work with local governments in their efforts to improve efficiency, transparency, and accountability, especially efforts to expand and improve China's open government information initiatives.
- Support projects that assist local governments, academics, and the non-profit sector in expanding the use of public hearings and other channels for citizens to incorporate their input in the policymaking process.
- Call on the Chinese Government to release people detained or imprisoned for exercising their right to call for political reform within China, including Liu Xiaobo (signer of Charter 08 who was formally arrested on June 23, 2009, on the charge of "inciting subversion of state power") and other people mentioned in this report and in the Commission's Political Prisoner Database.

COMMERCIAL RULE OF LAW

Findings

- The Chinese Government's uneven implementation of the commitments it has made pursuant to its obligations as a member of the World Trade Organization (WTO) continues to prompt serious concern. The WTO, in a report dated August 12, 2009, found that certain Chinese regulations that restrict foreign companies and Chinese-foreign joint ventures from importing or distributing products such as books, DVDs, and music, as well as from importing films for theatrical release, violate China's international trade obligations. In another case, the WTO ruled in July 2008 that China's tariffs on auto parts imports violated WTO rules. On August 28, China announced that it will scrap the higher tariffs starting September 1, 2009. Beyond the context of China's WTO commitments, additional

concerns arose this year in areas such as food and product safety, telecommunications regulation, intellectual property, and economic crime. Developments in these areas overshadowed limited improvements in areas such as contract enforcement, insurance, and antimonopoly.

• Numerous cases of Americans suffering broken commercial contracts in China, incurring significant financial losses, have been brought to the Commission's attention. At the same time, however, the Commission also noted indications of some limited improvement in the environment for judicial enforcement of commercial contracts, at least in large urban areas of China. In addition, during the Commission's 2009 reporting period, contract enforcement received attention from central judicial authorities in the form of a new Interpretation Related to Questions Arising in Connection With Implementation of the PRC Contract Law (Interpretation), issued by the Supreme People's Court. The Interpretation pushes lower courts to enforce oral contracts, and also is aimed at preventing local courts from dismissing form contracts out of hand. In a further development related to contract enforcement, on March 30, 2009, the Supreme People's Court also made available to the public a nationwide database of judgment debtors. The online, searchable database lists all defendants against whom people's courts have issued orders to pay outstanding money damages or other compensation for nonperformance of specific acts. The database creates incentives for debtors to comply with executable judgments issued by Chinese courts and also may reduce the costs that companies incur when assessing potential business partners and acquisition targets. The information available in the database also may be used by companies doing due diligence evaluations.

• Recent detentions of business executives of an Australian mining company have drawn an international spotlight on economic crimes and the criminalization of commercial disputes in China. The range of economic crime in China is broad, and business disputes in China frequently become subject to criminal law enforcement.

• Product quality and food safety emergencies continued to prompt changes in Chinese law. The new PRC Food Safety Law, enacted by the National People's Congress on February 28, 2009, and effective as of June 1, 2009, aims to consolidate the regulatory and legislative landscape governing food safety and product quality. The impact of the law as yet is unclear as it will depend not only on the effectiveness of implementation and enforcement, but also on the thoroughness with which regulatory authorities specify standards, timeline, budgets, and dispute resolution procedures, and on China's ability—as yet unproven—to develop local revenue sources and local expertise to hire and train qualified inspectors and regulators in sufficient numbers with requisite credentials.

• Notwithstanding international criticism of China's control of the Internet (including the controversy surrounding the Chinese Government's proposed mandatory preinstallation of Green Dam Internet filtering software on personal computers

sold in China [See Section II—Freedom of Expression]), the Chinese Government also used regulation of the telecommunications industry to control the transmission and dissemination of online content that the government and Party deem to be potentially detrimental to themselves, or to national unity, territorial integrity, social order, or stability. This was illustrated in the past year via the Ministry of Industry and Information Technology's issue of Measures for the Administration of Permission To Provide Telecommunications Services, which took effect on April 10, 2009.

• In December 2008, the National People's Congress passed amendments to the PRC Patent Law (Amendments) that took effect on October 1, 2009, and are intended to encourage domestic innovation. The Amendments contain provisions for compulsory licensing (i.e., requiring patent holders to license patents to others) that foreign patent experts have found troubling. Under the Amendments, compulsory licensing decisions turn on vague standards such as "sufficient" use of patents and "proper justification" for patent holders' decisions, and the amendments expand the potential for broad official discretion that could undermine intellectual property protections.

• The PRC Insurance Law was revised in February 2009 and took effect October 1, 2009. If it is effectively enforced, the revised law would provide for stricter oversight of insurers by the China Insurance Regulatory Commission, and for a number of protections for policyholders. The revised law also includes provisions intended to contribute to the stability of the macroeconomy. The revisions require strict separation between the insurance sector and other finance-related sectors, namely banking, securities, and trusts. In addition, insurers may not concurrently engage in the personal insurance business and the property insurance business. The law also introduces qualification requirements for directors, supervisors, senior management, and actuarial personnel of insurance companies. The revised law also requires insurance companies to establish internal compliance and reporting systems.

• Enforcement of the PRC Antimonopoly Law (AML) has lagged as the three enforcement authorities, the State Administration of Industry and Commerce, National Development and Reform Commission, and Ministry of Commerce (MOFCOM), have devoted efforts to developing AML implementing regulations. This delay has led some parties alleging anticompetitive behavior to bring private cases directly to courts rather than to the administrative enforcement authorities. As enforcement authorities issue implementing guidelines, however, the number of complaints filed with administrative enforcement authorities is expected to rise. Even though courts offer a forum for grievances at the present time, they do not necessarily possess the requisite investigatory and regulatory capacity to dispose of the cases that already have been brought. For this reason, while private actions offer a channel for grievances now, experts on Chinese antimonopoly law do not expect the cases that already have been accepted by the

courts to move quickly or to produce landmark judicial decisions.

• MOFCOM is the enforcement authority responsible for the premerger review process under the AML. MOFCOM's solicitation of third party views from government entities, customers, trade groups, and competitors appears to have become an integral part of MOFCOM's premerger review process, a move ostensibly intended, at least in part, to address concern about the possibility of decisions made based on non-objective factors. MOFCOM's review and much publicized denial of the proposed Coca-Cola/Huiyuan merger in the past year provides one illustration of MOFCOM premerger review processes.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

• Support joint U.S.-China training programs and legal exchanges aimed at addressing problems anticipated in China's implementation of compulsory licensing provisions in its newly amended Patent Law. Encourage bilateral discussions between U.S. and Chinese officials to address and resolve market access, legal, and other policy concerns arising from the amended Patent Law. Involve experts in fields where the threat to intellectual property rights posed by the new amendments is particularly acute (e.g., biotechnology).

• Develop and support U.S.-China legal cooperation programs aimed at increasing incentives for Chinese farmers and food production companies to control quality at the grassroots. That is, support and develop U.S.-China legal cooperation programs aimed at improving individuals' access to China's existing system of private civil litigation providing improved access to counsel, legal aid, and access to channels for injured parties to take legal action against offending parties.

• Call upon the Chinese Government to improve China's systems for obtaining damages so that food product companies found to be in violation of food safety laws face a real threat of bankruptcy.

• Encourage the Chinese Government to establish programs that help build the institutional foundations for producers in China to acquire reputations for safety and quality, which in turn would reinforce market-driven incentives to maintain higher quality in production and improved supply-chain management over the longrun.

ACCESS TO JUSTICE

Findings

• Conditions for China's human rights lawyers worsened this year. Public security officials and those working under their direction increasingly used abductions, physical violence, or threats of physical violence to harass and intimidate human rights lawyers. Authorities revoked the licenses of at least 21 human rights lawyers. The academic research and legal assist-

ance organization Open Constitution Initiative (OCI), or Gongmeng, was shut down for alleged tax problems. Authorities detained law professor and cofounder of OCI, Xu Zhiyong, for several weeks for alleged tax evasion, before releasing him on bail.

- Social stability was a major concern during this reporting year, and "mass incidents" were reportedly on the rise. Chinese authorities sought to strengthen institutions and measures to handle mass incidents.
- In explaining the decline in Administrative Litigation Law cases during the first half of 2009 compared with the same time period in 2008, the Supreme People's Court acknowledged that citizens lack confidence in the courts to fairly resolve disputes involving government officials.
- The *xinfang* ("letters and visits") system is an alternative to courts by which citizens can seek redress for grievances by submitting petitions to relevant authorities. However, the system's lack of accountability at the local level caused many petitioners not to obtain relief for their grievances, and large numbers have been harassed, abused, put in illegal black jails, locked up in psychiatric hospitals, or sent to reeducation through labor. The central government adopted measures that sought to improve the handling of "letters and visits," and to discourage citizens with grievances from traveling to Beijing to obtain redress through central-level institutions.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

- In meetings and official correspondence with Chinese officials, express concern about the revocation of at least 21 human rights attorneys' licenses this year, and the closure of the academic research and legal assistance organization Open Constitution Initiative (OCI). Request that the lawyers' licenses be reinstated and that OCI be permitted to continue its work.
- Support non-governmental organizations and other entities that partner with China's human rights lawyers and non-profit legal organizations. Provide additional support to bring more Chinese human rights lawyers, advocates, and scholars to the United States on the International Visitors Leadership Program and other similar programs.
- Support non-governmental organizations that address human rights issues confronting petitioners in China, and which also aim to build capacity among petitioners to protect their lawful rights. Urge the Chinese Government to protect the rights of petitioners to lawfully air their grievances.
- Express concern to Chinese authorities over treatment of petitioners and encourage Chinese leaders to reexamine the incentive structures at the local level that lead to the forced return of petitioners from higher administrative levels and the stifling of citizen expressions of legitimate grievances.

• Communicate concerns about possible official political abuse of psychiatry and politically motivated commitment of petitioners to psychiatric facilities in China to the American Psychiatric Association, the Geneva Initiative on Psychiatry, the World Medical Association, and the World Psychiatric Association (WPA). Concerns should be raised at the regional WPA meeting in Beijing in September 2010.
• Call for the release of lawyers, activists, and others who are incarcerated, subject to unlawful home confinement, or who have disappeared for their activities to defend and promote the rights of Chinese citizens, including Hu Jia, Gao Zhisheng, and Zheng Enchong, as well as other prisoners mentioned in this report and in the Commission's Political Prisoner Database.

XINJIANG

Findings

• Human rights conditions in the Xinjiang Uyghur Autonomous Region (XUAR) deteriorated during the Commission's 2009 reporting year. A demonstration held by Uyghurs in the XUAR capital of Urumqi on July 5, 2009, was forcefully suppressed by police, and outbreaks of violence in the region starting that day, drew an international spotlight to longstanding tensions in the XUAR and Uyghurs' grievances toward government policies that have undermined the protection of their rights. The ensuing harsh security crackdown in the XUAR—including reports of arbitrary detention targeting Uyghurs and steps to punish acts of peaceful protest—further underscored longstanding government repression in the region and the use of anti-crime and anti-terrorism campaigns to quell dissent. Prior to the July 5 demonstration, however, human rights conditions in the region had already declined throughout the year, maintaining a trend in worsening conditions documented by the Commission in its 2008 Annual Report.
• Authorities continued in late 2008 and in 2009 to tighten repressive security controls and use them to stifle dissent and independent expressions of ethnic and religious identity, especially among Uyghurs. The Chinese Government also maintained, and in some cases bolstered, policies in areas such as language use, labor, and migration that continued to disadvantage Uyghurs and other non-Han populations in the XUAR and engineer broad cultural, economic, and demographic shifts in the region.
• Acts of deadly violence took place during the week of July 5, a time during which both Uyghurs and Han Chinese were reported to commit violent assaults on each other. However efforts to prosecute people appear to have extended beyond acts of violence and include political motivations in some cases, targeting dissent by Uyghurs. In the aftermath of the July 5 demonstration and strife in the region, the Chinese Government reiterated pledges to place "stability above all else" and called for "striking hard" against people involved in "instigating" and "organizing" events on July 5. Against the backdrop of a criminal law system in which authorities have used criminal charges to

cast free expression as a crime, it appears that some acts of peaceful protest or expression may be subject to formal criminal prosecution. While security measures are reported to remain tight in the region, a number of details and the full implications of the government response to events on July 5 remain unknown, especially in light of government controls over the free flow of information on the events.

- The Commission also observed problems in the past year including state-sanctioned discriminatory job recruitment practices, abusive practices in state-led labor transfer and work-study programs, procedural violations in the criminal justice system and unique barriers to access to justice for non-Han ethnic groups, the intensification of educational policies that marginalize the use of Uyghur and other languages besides Mandarin Chinese, and the maintenance of harsh policies toward Uyghur refugees and other individuals returned to China under the sway of China's influence in other countries. In addition, in the past year, the government began to destroy a cornerstone of the Uyghurs' cultural heritage and undermined their property rights through a project implemented in the city of Kashgar to demolish most buildings in a historic area and resettle residents.
- The government sharpened rhetoric throughout the year against U.S.-based Uyghur rights advocate Rebiya Kadeer and "Western hostile forces" using the "cover" of human rights to "sabotage" the XUAR's stability, calling into question the government's willingness to engage with the international community in upholding its obligations to protect the rights of XUAR residents. Government rhetoric against Rebiya Kadeer heightened in July as authorities claimed that Rebiya Kadeer and the World Uyghur Congress, which she leads, instigated strife on July 5. Authorities did not produce evidence that proved their accusations, and Rebiya Kadeer has rejected the charges against her.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

- Support legislation that expands U.S. Government resources for raising awareness of human rights conditions in the Xinjiang Uyghur Autonomous Region (XUAR), for protecting Uyghur culture, and for increasing avenues for Uyghurs to protect their human rights.
- Raise concern about human rights conditions in the XUAR to Chinese officials and condemn the use of antiterrorism and security campaigns to suppress human rights. Stress that protecting the rights of XUAR residents is a crucial step for securing true stability in the region. Call on the Chinese Government to demonstrate a commitment toward dialogue on human rights issues by ending rhetoric against "Western infiltration" and slander against peaceful Uyghur rights advocates.
- Call for the release of Uyghurs imprisoned for advocating for their rights or for their personal connection to rights advocates,

including: Nurmemet Yasin (sentenced in 2005 to 10 years in prison after writing a short story); Miradil (Mir'adil) Yasin and Mutellip Téyip (two young men detained in December 2008 after distributing leaflets on the Xinjiang University campus calling on students to organize a public demonstration); Ekberjan Jamal (sentenced in 2008 to 10 years in prison for "splittism" and revealing state secrets, after he used his cell phone to make audio recordings of public demonstrations and sent the recordings to friends overseas); and Alim and Ablikim Abdureyim (adult children of activist Rebiya Kadeer, sentenced in 2006 and 2007 to 7 and 9 years in prison, respectively, for alleged economic and "secessionist" crimes), as well as other prisoners mentioned in this report and in the Commission's Political Prisoner Database.

- Especially in light of events of July 5, stress to Chinese officials the importance of: abiding by the guarantees for freedoms of speech, assembly, and association contained in the PRC Constitution, Universal Declaration of Human Rights, and International Covenant on Civil and Political Rights, distinguishing between acts of peaceful protest and acts of violence, and not treating peaceful protest as a crime; providing details about each person detained or charged with a crime, including each person's name, the charges (if any) against each person, the name and location of the prosecuting office (i.e., procuratorate) and court handling each case, and the name of each facility where a person is detained or imprisoned; ensuring that security officials fulfill their obligations under Articles 64(2) and 71(2) of the PRC Criminal Procedure Law to inform relatives or workplaces where detainees are being held; ensuring criminal suspects are able to hire a lawyer and exercise their right to employ legal defense in accordance with Articles 33 and 96 of the PRC Criminal Procedure Law and are able to employ legal defense of their own choosing; allowing access by diplomats and other international observers to the trials of people charged with crimes connected to events on July 5; and allowing international observers and journalists full and unfettered access to all areas of the XUAR.
- Support non-governmental organizations that address human rights issues in the XUAR to enable them to continue to gather information on conditions in the region and develop programs to help Uyghurs increase their capacity to preserve their rights and protect their culture, language, and heritage. Support the efforts of media outlets that broadcast news to the XUAR and gather news from the region, such as Radio Free Asia (RFA) and the Voice of America (VOA), to expand their capacity to report on the region and to provide uncensored information to XUAR residents.
- Support legal programs in the XUAR to promote rule of law and train legal personnel, including those able to meet the legal needs of XUAR residents who speak languages other than Mandarin Chinese. Urge scholarship programs that operate in China, including those in law-related subjects, to increase outreach to students from the XUAR.

• Raise the issue of Uyghur refugees with Chinese officials and with officials from international refugee agencies and from transit or destination countries for Uyghur refugees. Call on Chinese officials and officials from transit or destination countries to respect the asylum seeker and refugee designations of the UN High Commissioner for Refugees and the refugee and citizenship designations of other countries. Call on transit and destination countries to abide by requirements in the 1951 Convention on the Status of Refugees and Convention against Torture on refoulement.
• Call on Chinese Government officials to abide by the government's domestic and international commitments to protect cultural heritage within its borders, including by protecting the right of Uyghurs to preserve their cultural heritage and property. Provide support for organizations that can directly assist Uyghurs in the documentation and preservation of their cultural heritage.

TIBET

Findings

• During the Commission's 2009 reporting year, the Chinese Government and Communist Party strengthened the policies and measures that frustrated Tibetans prior to the wave of Tibetan protests that started in March 2008. Tibetans continued to express their rejection of Chinese policies by means that included staging political protests. As a result of Chinese Government and Party policy and implementation, and official campaigns to "educate" Tibetans about their obligations to conform to policy and law that many Tibetans believe harm their cultural identity and heritage, the level of repression of Tibetans' freedoms of speech, religion, assembly, and association increased further.
• The environment for the dialogue between the Dalai Lama's representatives and Chinese Government and Party officials continued to deteriorate: both sides have referred to the dialogue as having stalled. The principal results of the eighth round of formal dialogue between the Dalai Lama's representatives and Party officials were the Dalai Lama's envoys' handover of a detailed memorandum explaining Tibetan proposals for "genuine autonomy," the Party's rejection of the memorandum, and the Party's continued insistence that the Dalai Lama fulfill additional preconditions on dialogue.
• The government has in the past year used institutional, educational, legal, and propaganda channels to pressure Tibetan Buddhists to modify their religious views and aspirations. Chinese officials adopted a more assertive tone in expressing determination to select the next Dalai Lama, and to pressure Tibetans living in China to accept only a Dalai Lama approved by the Chinese Government. Escalating government efforts to discredit the Dalai Lama and to transform Tibetan Buddhism into a doctrine that promotes government positions and policy has resulted instead in continuing Tibetan demands for freedom of religion and the Dalai Lama's return to Tibet.

- The government pressed forward with a Party-led development policy that prioritizes infrastructure construction and casts Tibetan support for the Dalai Lama as the chief obstacle to Tibetan development. The government announced a major new infrastructure program—the "redesign" of Lhasa—that is scheduled for completion in 2020, the same year that the government plans to have ready for operation several new railways traversing sections of the Tibetan plateau. The Tibet Autonomous Region (TAR) Communist Party and the Minister of Railways discussed in May 2009 accelerating the construction of railways that will access the TAR. Confrontations between Tibetans and Chinese Government and security officials resulted in 2009 when Tibetans protested against natural resource development projects.
- The government and Party crackdown on Tibetan communities, monasteries, nunneries, schools, and workplaces following the wave of Tibetan protests that began on March 10, 2008, continued during 2009. Security measures intensified in some Tibetan areas during a months-long period that bracketed a series of three sensitive anniversaries and observances in February and March 2009. As a result of increased government security measures and harsh action against protesters, Tibetan political protests in 2009 were smaller and of briefer duration than the protests of March and April 2008. The Commission's Political Prisoner Database contained as of September 2009 a total of 670 records of Tibetans detained on or after March 10, 2008—a figure certain to be incomplete—for exercising rights such as the freedoms of speech, religion, assembly, and association.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

- Urge the Chinese Government to move beyond the current stalled condition of the dialogue with the Dalai Lama or his representatives. A Chinese Government decision to engage the Dalai Lama in substantive dialogue can result in a durable and mutually beneficial outcome for Chinese and Tibetans, and improve the outlook for local and regional security in the coming decades.
- Convey to the Chinese Government the urgent importance of respecting Tibetan Buddhists' right to the freedom of religion through measures that include: ceasing aggressive campaigns of "patriotic education" that compel Tibetans to endorse state antagonism toward the Dalai Lama and increase stress to local stability; allowing Tibetan Buddhists to identify and educate religious teachers in a manner consistent with their preferences and traditions; and using state powers such as passing laws and issuing regulations to protect Tibetans' religious freedom instead of remolding Tibetan Buddhism to suit the state.
- Continue to urge the Chinese Government to allow international observers to visit Gedun Choekyi Nyima, the Panchen Lama whom the Dalai Lama recognized, and his parents.

• In light of the heightened pressure on Tibetans and their communities in the period following March 2008, increase support for U.S. non-governmental organizations to develop programs that can assist Tibetans to increase their capacity to peacefully protect and develop their culture, language, and heritage; that can help to improve education, economic, health, and environmental conservation conditions of ethnic Tibetans living in Tibetan areas of China; and that create sustainable benefits without encouraging an influx of non-Tibetans into these areas. Support funding for Radio Free Asia and Voice of America news reporting and multi-dialect broadcasting to the Tibetan areas of China so that Tibetans have access to uncensored information about events in China and worldwide.
• Encourage the Chinese Government to take fully into account the views and preferences of Tibetans when the government plans infrastructure and natural resource development projects in the Tibetan areas of China. Encourage the Chinese Government to engage appropriate experts in assessing the impact of such infrastructure and natural resource development projects, and in advising the government on the implementation and progress of such projects.
• Continue to convey to the Chinese Government the importance of distinguishing between peaceful Tibetan protesters and rioters, honoring the PRC Constitution's reference to the freedoms of speech and association, and not treating peaceful protest as a crime. Request that the Chinese Government provide complete details about Tibetans detained, charged, or sentenced with protest-related crimes.
• Continue to raise in meetings and correspondence with Chinese officials the cases of Tibetans who are imprisoned as punishment for the peaceful exercise of human rights. Representative examples include: former Tibetan monk Jigme Gyatso (now serving an extended 18-year sentence for printing leaflets, distributing posters, and later shouting pro-Dalai Lama slogans in prison); monk Choeying Khedrub (sentenced to life imprisonment for printing leaflets); reincarnated lama Bangri Chogtrul (serving a sentence of 18 years commuted from life imprisonment for "inciting splittism"); and nomad Ronggyal Adrag (sentenced to 8 years' imprisonment for shouting political slogans at a public festival).

HONG KONG AND MACAU

Findings

• In January 2009, Hong Kong Special Administrative Region Chief Executive Donald Tsang announced his decision to defer the public consultation on electoral methods in 2012 until the fourth quarter of 2009, citing the preeminence of "tackling economic and livelihood concerns." Tsang's decision appears to echo the Chinese central government's focus on economic matters over political reform this year as well. Several pro-democracy legislators protested against Tsang's decision, accusing him of using the economic downturn as an excuse to delay universal suffrage.

- The Macau Special Administrative Region passed a National Security Law in February 2009 which criminalizes, as well as stipulates prison terms for, treason, secession, subversion, sedition, theft of state secrets, and association with foreign political organizations that harm state security. Citizens have reported concern that vague language in the law leaves it open for abuse by officials, and point to the March 2009 barring of Hong Kong pro-democracy lawmakers, academics, and activists from entering Macau as an example of such abuse.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

- Call on the government of the Hong Kong Special Administrative Region to advance the progress of electoral reform and avoid further delaying the goal of election by universal suffrage in Hong Kong.
- Call on the government of the Macau Special Administrative Region to review its policy of restricting the entry of lawmakers, scholars, journalists, and activists into Macau.

The Commission adopted this report by a vote of 16 to 1.†

POLITICAL PRISONER DATABASE

Recommendations

When composing correspondence advocating on behalf of a political or religious prisoner, or preparing for official travel to China, Members of Congress and Administration officials are encouraged to:

- Check the Political Prisoner Database (*http://ppd.cecc.gov*) for reliable, up-to-date information on one prisoner, or on groups of prisoners. Consult a prisoner's database record for more detailed information about the prisoner's case, including his or her alleged crime, specific human rights that officials have violated, stage in the legal process, and location of detention or imprisonment, if known.
- Advise official and private delegations traveling to China to present Chinese officials with lists of political and religious prisoners compiled from database records.
- Urge U.S. state and local officials and private citizens involved in sister-state and sister-city relationships with China to explore the database, and to advocate for the release of political and religious prisoners in China.

A POWERFUL RESOURCE FOR ADVOCACY

The Commission's Annual Report provides information about Chinese political and religious prisoners[1] in the context of specific human rights and rule of law abuses. Many of the abuses result from the Communist Party and government's application of policies and laws. The Commission relies on the Political Prisoner Database (PPD), a publicly available online database maintained by the Commission, for its own advocacy and research work, including the preparation of the Annual Report, and routinely uses the database to prepare summaries of information about political and religious prisoners for Members of Congress and Administration officials.

The Commission invites the public to read about issue-specific Chinese political imprisonment in sections of this Annual Report, and to access and make use of the PPD at *http://ppd.cecc.gov*. (Information on how to use the PPD is available at *http://www.cecc.gov/pages/victims/index.php.*)

The PPD has served, since its launch in November 2004, as a unique and powerful resource for governments, non-governmental organizations (NGOs), educational institutions, and individuals who research political and religious imprisonment in China, or advocate on behalf of such prisoners. The most important feature of the PPD is that it is structured as a genuine database and uses a powerful query engine. Though completely Web based, it is not an archive that uses a simple or advanced search tool, nor is it a library of Web pages and files.

The PPD received approximately 30,700 online requests for prisoner information during the 12-month period ending July 31, 2009. During the entire period of PPD operation beginning in late 2004, approximately 30 percent of the requests for information have originated from U.S. Government (.gov) Internet domains, 16 percent from commercial (.com) domains, 15 percent from network

(.net) domains, 12 percent from international (e.g., .fr, .ca) domains, 2 percent from education (.edu) domains, 2 percent from non-profit organization (.org) domains, 2 percent from Arpanet (.arpa) domains, and 1 percent from international treaty organization (.int) domains. Approximately 20 percent of the requests have been from numerical Internet addresses that do not provide information about the name of an organization or the type of domain.

POLITICAL PRISONERS

The PPD seeks to provide users with prisoner information that is reliable and up to date. Commission staff members work to maintain and update political prisoner records based on their areas of expertise. The staff seek to provide objective analysis of information about individual prisoners, and about events and trends that drive political and religious imprisonment in China.

As of September 7, 2009, the PPD contained information on 5,176 cases of political or religious imprisonment in China. Of those, 1,266 are cases of political and religious prisoners currently known or believed to be detained or imprisoned, and 3,910 are cases of prisoners who are known or believed to have been released, executed, or to have escaped. The Commission notes that there are considerably more than 1,266 cases of current political and religious imprisonment in China. The Commission staff works on an ongoing basis to add cases of political and religious imprisonment to the PPD.

The Dui Hua Foundation, based in San Francisco, and the former Tibet Information Network, based in London, shared their extensive experience and data on political and religious prisoners in China with the Commission to help establish the database. The Dui Hua Foundation continues to do so. The Commission also relies on its own staff research for prisoner information, as well as on information provided by NGOs, other groups that specialize in promoting human rights and opposing political and religious imprisonment, and other public sources of information.

POWERFUL DATABASE TECHNOLOGY

The PPD aims to provide a technology with sufficient power to cope with the scope and complexity of political imprisonment in China. The upgrade to the database that the Commission hoped to have available by the end of 2008 is nearing completion. The upgrade will leverage the capacity of the Commission's information and technology resources to support research, reporting, and advocacy by the U.S. Congress and Administration, and by the public, on behalf of political and religious prisoners in China.

Each prisoner's record describes the type of human rights violations by Chinese authorities that led to his or her detention. These include violations of the right to peaceful assembly, freedom of religion, freedom of association, and free expression, including the freedom to advocate peaceful social or political change and to criticize government policy or government officials. Users may search for prisoners by name, using either the Latin alphabet or Chinese characters. The PPD allows users to construct queries that include one or more types of data, including personal information or information about imprisonment.

The design of the PPD allows anyone with access to the Internet to query the database and download prisoner data without providing personal information to the Commission, and without the PPD downloading any software or Web cookies to a user's computer. Users have the option to create a user account, which allows them to save, edit, and reuse queries, but the PPD does not require a user to provide any personal information to set up such an account. The PPD does not download software or a Web cookie to a user's computer as the result of setting up such an account. Saved queries are not stored on a user's computer. A user-specified ID (which can be a nickname) and password are the only information required to set up a user account.

Many records contain a short summary of the case that includes basic details about the political or religious imprisonment and the legal process leading to imprisonment. The upgrade will increase the length of the short summary about a prisoner and enable the PPD to provide Web links in a short summary that can open reports, articles, and texts of laws that are available on the Commission's Web site or on other Web sites. Web links in Commission reports and articles will be able to open a prisoner's PPD record.

When the PPD upgrade is available for public use, it will increase the number of types of information available from 19 to 40. [See box titled Congressional-Executive Commission on China Political Prisoner Database: Current and Additional Data Fields below.] The upgrade will allow users to query for and retrieve information such as the names and locations of the courts that convicted political and religious prisoners, as well as the dates of key events in the legal process such as sentencing and decision upon appeal. The users will be able to download PPD information as Microsoft Excel or Adobe PDF files more easily—whether for a single prisoner record, a group of records that satisfies a user's query, or all of the records available in the database.

CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA POLITICAL PRISONER DATABASE: CURRENT AND ADDITIONAL DATA FIELDS

Current PPD Fields (19)	PPD Fields Added in Upgrade (21)
CECC record number	Affiliation
Detention status	Residence (province)
Issue category	Residence (prefecture)
Main name	Residence (county)
Chinese characters (main name)	Formal arrest date
Other (or lay) name	Trial date
Alternate name(s)	Trial court
Pinyin name (for non-Han)	Sentence date
Ethnic group	Sentence court
Sex	Appeal date
Age at detention	Appeal court
Religion	Appeal ruling date
Occupation	Appeal ruling court
Date of detention	Sentence ends per PRC
Province where imprisoned	Actual date released
Current prison	Charge (statute)
Sentence length (years)	Sentence length (months)
Legal process	Sentence length (weeks)
Short summary	Sentence length (days)
	Prefecture where imprisoned
	County where imprisoned

Section II. Human Rights

FREEDOM OF EXPRESSION

Introduction

During its 2009 reporting year, the Commission observed the continued failure of Chinese officials to protect the right of citizens to engage in free expression, as guaranteed under the PRC Constitution and international law. Chinese officials continued to target for punishment citizens who peacefully expressed political dissent or advocated for human rights, including those who voiced concern that the Chinese Government had not adequately investigated the cause of school collapses following the May 2008 Sichuan earthquake, sought to express support for Charter 08 (a document calling for political reform and greater protection of human rights), and spoke out about alleged official misconduct. Citizens faced prison sentences or reeducation through labor or other abuses of police power, including surveillance, interrogation, and restrictions on movement. Officials also continued to restrict peaceful religious expression, confiscating or punishing the distribution of unapproved bibles, Muslim books, Falun Gong documents, and other "illegal" religious materials, and restricting religious sermons, interpretations of religious texts, and the ability of citizens to proselytize or teach religion to their children. [For more information, see Section II—Freedom of Religion, including subsections titled Controls Over Religious Publications, Controls Over Religious Publications in the XUAR, and Restrictions on Proselytizing, Contact With Foreign Christians, as well as the box titled Religious Prisoners.]

Chinese officials continued to deny citizens the right to freedom of the press by censoring domestic news coverage and maintaining "prior restraints." Officials censored media coverage of stories relating to the economy, the environment, and protests in Iran following the contested June 2009 presidential election, and punished news media for covering "politically sensitive" issues. Officials strengthened "prior restraints" on the media, a system under which journalists, editors, publications, and Web sites must obtain licenses from the government in order to obtain legal status. Officials targeted for closure publications containing political or religious content dealing with Falun Gong, Tibetan areas of China, or the Xinjiang Uyghur Autonomous Region (XUAR) or publications by organizations that did not have a license to publish. The government continued to allow the media limited space to question government officials and policies.

The Chinese Government's regulation of the Internet continued to violate international standards for free expression. Authorities and Internet companies continued to remove political and religious content from the Internet, including references to Charter 08, and Web sites relating to human rights, Tibetan areas of China, and the XUAR. Officials also sought to strengthen their capacity to monitor Internet users' online expression. They introduced and then backed away from a requirement that all computers in China be sold with pre-installed censorship software found to filter political and religious content and monitor individual computer behav-

ior. Officials also began forcing news Web sites to require new users to provide their real name and identification number in order to post a comment. The Internet continued to serve as an important outlet for public criticism, including the Deng Yujiao case in which a young woman allegedly stabbed an official to death in self-defense, and public opposition to the government's attempt to require computers in China to come with pre-installed censorship software.

This past year, the Chinese Government continued to express an intent to "guarantee citizens' right of information." Implementation of the Regulations on Open Government Information, which took effect in May 2008, has been hampered by agency refusals to disclose information and the reluctance of courts to enforce compliance. Proposed revisions to the 20-year-old PRC Law on the Protection of State Secrets do not address the vagueness and overbreadth of China's laws and regulations related to state secrets that make them susceptible to abuse. Local officials continued to fail to disclose the extent of mining disasters, disease outbreaks, and information about polluters.

Abuse of Criminal Law and Police Power To Punish Peaceful Expression of Political Opposition and Human Rights Advocacy

Chinese officials continued to target citizens who peacefully expressed political opposition or advocacy of human rights. These efforts to stifle free expression contravene China's constitutional protections for freedom of speech and freedom to criticize government officials,[1] as well as international standards. Chinese officials, however, insist that Chinese citizens enjoy freedom of expression. During the February 2009 session of the UN Human Rights Council's Universal Periodic Review of the Chinese Government's human rights record, the Chinese delegation claimed that "[n]o individual or press has been penalized for voicing their opinions or views" and that China's laws provide "complete guarantees" on freedom of expression.[2] [For more information on cases of officials in China abusing the criminal law (e.g., charging citizens with "splittism") or police power to punish religious expression, including possession of Falun Gong materials or teaching religion to their children, see box titled Religious Prisoners in Section II—Freedom of Religion.]

Subversion and Inciting Subversion

This past year officials continued to label peacefully expressed opposition to the Communist Party as a threat to national security and to rely on Article 105 in the PRC Criminal Law as the basis for this charge. Article 105 provides for sentences of up to life imprisonment for attempts to subvert state power or 15 years for inciting such subversion.[3] While international law permits a government to restrict expression to protect national security,[4] China's application of Article 105 violates international law. Specifically, both the International Covenant on Civil and Political Rights (Article 19) and the Universal Declaration of Human Rights (Article 29) require that a restriction on free expression be limited to that which is "necessary" to protect national security, or "solely for the purpose of" protecting national security.[5] Chinese courts make no attempt to assess whether the speech in question posed an actual threat to national security.[6] The UN Special Rapporteur on Torture has said that the vague wording of China's national security crimes leave their application open to abuse of freedom of speech.[7] A recent study of "inciting subversion" cases by a human rights non-governmental organization found that "speech in and of itself is interpreted as constituting incitement of subversion,"[8] and Chinese defense lawyers have noted that courts have wide latitude because there exists no legislative or judicial interpretation limiting the application of the subversion crime.[9]

The recent case of Zhang Qi typifies courts' handling of subversion cases. The Chongqing No. 1 Intermediate People's Court sentenced Zhang on July 7, 2009, to four years in prison for "inciting subversion."[10] Zhang is a member of the Union of Chinese Nationalists (*zhongguo fanlan lianmeng*), an "illegal" organization which opposes the Communist system.[11] The court opinion cited the following evidence: four essays Zhang posted online that "contained harmful information attacking the people's democratic dictatorship and socialist system" (citing only the titles of the essays and no specific passages); online discussions in which Zhang expressed opposition to the Communist Party and a desire to change the socialist system; and Zhang's involvement with the organization's Web site and recruiting supporters.[12] The opinion provided no evidence that Zhang advocated violence, did not assess the threat Zhang's activities posed to national security, and made no attempt to balance the state's interest with Zhang's right to free speech or association. Other cases this past year include:

- In November 2008, the Chengdu Intermediate People's Court in Sichuan province sentenced freelance writer and journalist Chen Daojun to three years in prison for inciting subversion.[13] Prosecutors cited essays Chen wrote criticizing the government's policies toward China's ethnic Tibetan minority.[14]
- In January 2009, the Hangzhou Intermediate People's Court in Zhejiang province sentenced China Democracy Party (CDP) member Wang Rongqing to six years' imprisonment for subversion, citing his publication of "The Opposition Party" and other articles critical of China's political system, as well as his organization of activities for the CDP, an "illegal" opposition party.[15]

Subversion and Inciting Subversion—Continued

- In March 2009, the Jixi Intermediate People's Court in Heilongjiang province sentenced rights activist Yuan Xianchen to four years' imprisonment for inciting subversion.[16] The court cited Yuan's distribution of anti-Party writings to petitioners in Beijing, interviews with the overseas news Web site Epoch Times in which he criticized the Party and called for democracy, Internet essays "attacking" socialism, and funds he received from domestic and overseas organizations.[17]
- In August 2009, the Suqian Municipal People's Court in Jiangsu province held the trial of democracy advocate Guo Quan on charges of subversion of state power.[18] Guo earlier told his lawyer that while detained, authorities questioned him about his online organizing of a democratic party, support for a multi-party system, and essays alleged to have slandered socialism and subverted state power.[19]

PUBLIC CRITICISM OF COLLAPSE OF SCHOOLS AND SCHOOLCHILDREN DEATHS FOLLOWING THE MAY 2008 SICHUAN EARTHQUAKE

Officials sought to silence parents and other citizens seeking to investigate the role shoddy construction played in the collapse of large numbers of schools in the May 2008 Sichuan earthquake, and legal remedies and names and figures for the schoolchildren who perished.[20] Parents of deceased children reported that local officials offered them money in exchange for silence, ordered some to serve reeducation through labor, kept some under surveillance, stopped them from holding memorials, warned them not to speak to media, and prevented them from traveling to Beijing to petition the central government.[21] As the one-year anniversary of the earthquake approached in May 2009, Ai Weiwei, a blogger and artist organizing a campaign to tally the student death toll, said that officials had attacked or detained 20 of his volunteers and that his blog postings were frequently removed from the Internet.[22] Sang Jun, who lost his 11-year-old son in the earthquake, said that hundreds of officials were watching dozens of parents in Mianzhu county, Sichuan province.[23] One Mianzhu official reportedly told Sang that contact with foreign press would be considered "unfavorable to China."[24] A Mianzhu official denied the reports of harassment.[25]

Officials charged other citizen activists with national security crimes. In August 2009, the Chengdu Intermediate People's Court in Sichuan held the trial of writer and environmental activist Tan Zuoren on the charge of inciting subversion.[26] Tan had begun an independent investigation into the school collapses and was detained shortly after he issued preliminary findings. Prosecutors reportedly cited Tan's previous criticism of the government's handling of the 1989 Tiananmen protests as well as his interviews with international media after the earthquake.[27] Also in August, the Chengdu Wuhou District People's Court held a closed trial for rights activist Huang Qi on suspicion of "illegal possession of state secrets."[28] The underlying activity leading to the charge is unclear, but Chengdu officials detained Huang shortly after he visited earthquake areas and issued a report on his human rights advo-

cacy Web site about parents' demands for compensation and an investigation.[29] The trials of Tan and Huang were marred by procedural irregularities and official abuse, including barring witnesses from testifying.[30] Officials also released from custody Liu Shaokun and Zeng Hongling, both of whom were detained in connection with their articles, photos, and public comments about the earthquake.[31]

CONTROLS OVER FREE EXPRESSION IN THE XINJIANG UYGHUR AUTONOMOUS REGION

Authorities in the Xinjiang Uyghur Autonomous Region (XUAR) continued to block free speech and harass, detain, and imprison people for peaceful forms of expression. In December 2008, XUAR media reported that Urumqi authorities took into detention Miradil (Mir'adil) Yasin and Mutellip Téyip after the two young men distributed leaflets on the Xinjiang University campus calling on students to organize a public demonstration.[32] University officials said the leaflets had "reactionary" content aimed at "inciting students to demonstrate in the streets and create chaos."[33] Available information suggests the leaflets may have called on students to peacefully protest tobacco and alcohol sales.[34] [For more information see Section IV—Xinjiang—Controls Over Free Expression and Assembly.]

SUPPRESSION OF CHARTER 08

Officials harassed a number of citizens beginning in December 2008 in connection with Charter 08, a document calling for political reform and greater protection of human rights in China. More than 300 Chinese citizens released Charter 08 online on the eve of the 60th anniversary of the Universal Declaration of Human Rights.[35] By October 2009, 9,700 people reportedly had signed the Charter.[36] Liu Xiaobo, a prominent intellectual and signer, was detained on December 8, 2008, a day before the Charter was released.[37] Authorities violated Chinese law by placing Liu under residential surveillance at an unknown location, instead of his Beijing home, by denying him access to his lawyer and family, and by holding him without formal charge beyond the six-month limit for residential surveillance.[38] On June 23, 2009, Beijing public security officials arrested Liu on the charge of inciting subversion for "spreading rumors and defaming of the government," and refused to allow defense lawyer Mo Shaoping to represent him because Mo had also signed the Charter.[39] In early January 2009, overseas non-governmental organizations and media reported that Chinese authorities sought to question, formally summoned, threatened, or otherwise harassed more than 100 signers of Charter 08.[40] Those harassed reported that officials warned them not to give media interviews to promote Charter 08, sought to determine the main authors of the document and how it was disseminated, and demanded public retractions of signatures.[41] Signers continued to report police questioning and surveillance during the first half of 2009, including one signer who was placed under residential surveillance after she distributed copies of the Charter on the street.[42]

HARASSMENT ON EVE OF 20TH ANNIVERSARY OF TIANANMEN PROTESTS

Officials sought to suppress the free expression of citizens in the lead-up to June 4, 2009, the 20th anniversary of the government's violent suppression of the 1989 Tiananmen protests.

- In March 2009, officials briefly held Zhang Shijun, a former soldier who served during the protests, after he published an open letter to President Hu Jintao calling for a reassessment of the Tiananmen protests and gave interviews to foreign media.[43]
- In April, police in Beijing detained Qi Zhiyong for one day and stationed officers outside his apartment. Qi, who lost a leg after being shot during the 1989 protests, had spoken out about the incident and given interviews to foreign news media.[44]
- In March and May 2009, Beijing public security officials summoned Dr. Jiang Qisheng, a writer and vice chairman of Independent Chinese PEN Center, which is affiliated with an international writers association, and confiscated his computer, books, and manuscripts from his home.[45] Jiang was reportedly preparing to publish an account of the Tiananmen protests and their aftermath.
- In June, officials ordered Zhang Huaiyang to serve one and one-half years of reeducation through labor.[46] Officials had detained Zhang on the charge of inciting subversion. Zhang had signed Charter 08 and posted an essay online titled "Is There Really No One Who Dares To Take to the Street To Commemorate 6–4?"[47]
- In June, officials in Chongqing municipality ordered Chen Yang, a Charter 08 signatory, to serve one year of reeducation through labor after he took part in an online discussion with friends about wearing white and lighting candles to commemorate the Tiananmen protests.[48]
- Chinese Human Rights Defenders reported on June 4, 2009, that officials had harassed 65 activists to prevent them from commemorating the Tiananmen protests, including the detention of Wu Gaoxing for wearing a commemorative shirt while riding a bicycle. The report said police were stationed outside the homes of individuals such as human rights lawyers Pu Zhiqiang and Teng Biao and that other individuals were forced to leave Beijing or were visited at their home by police and warned against giving media interviews or meeting with friends to commemorate the event.[49]

Defamation

Local officials continued to abuse the crime of defamation to punish critics and whistleblowers. At a conference held in May 2009, the official Legal Daily reported that a number of Chinese legal scholars expressed concern at what the article described as "many" recent cases of local governments using the "crime of defamation" to retaliate against whistleblowers and "abuse government authority to smother citizens' freedom of speech and right to supervise."[50] The article noted that in 2008, journalists were the targets of such cases, while in 2009, the targets were citizens who used the Internet to expose problems. Scholars interviewed for the article blamed the "arbitrary" and "subjective" nature of official power in China and criticized Article 246 of the PRC Criminal Law, which provides officials with a loophole to pursue a defamation case in the absence of a complaint if "serious harm is done . . . to the interests of the State."[51] China's lack of an independent judiciary also contributes to the problem.[52] Cases this past year included:

- In March 2009, police from Lingbao city, Henan province, traveled 1,200 kilometers to Shanghai to apprehend Wang Shuai after he suggested in an online post that Lingbao officials had misappropriated funds intended for drought prevention. They brought him back to Lingbao and kept him in custody for five days. Following public outcry, provincial officials disciplined Lingbao police and paid Wang 784 yuan (US$115).[53]
- In April 2009, China Daily reported that police detained blogger Shi Zhixian for three days in March for alleging that officials rigged a local election in which he ran as a candidate. Police reportedly issued an apology, offered him compensation, and disciplined five officers.[54]

Regulation and Censorship of the News Media and Publishing

The Chinese Government and Communist Party continued to censor and regulate the news media and publishing industry in violation of the PRC Constitution and international standards for free expression. Article 35 of the PRC Constitution provides for freedom of the press.[55] The International Covenant on Civil and Political Rights and Universal Declaration of Human Rights prohibit restrictions on the press except those "necessary" for, or "solely for the purpose of," respecting the rights or reputations of others or protecting national security, public order, public health or morals, or the general welfare.[56] The government and Party exceed these limits by restricting political and religious content and controlling the media for political purposes. Officials continued to deny the existence of press censorship.[57]

OFFICIALS TREAT NEWS MEDIA AS A TOOL OF THE PARTY

During the Commission's 2009 reporting year, top Chinese officials continued to emphasize the media's subservient relationship to the government and Party. In the Commission's previous reporting year President and Party General Secretary Hu Jintao gave a major speech on the role of the news media in June 2008, during which he said journalists should "promote the development and

causes of the Party and the state" and that their "first priority" is to "correctly guide public opinion."[58] In November 2008, Liu Yunshan, director of the Party's Central Propaganda Department, told local propaganda bureaus and "persons responsible for news media" to emphasize "positive propaganda" to deal with the economic downturn.[59] In July 2009, Director Liu Binjie of the General Administration of Press and Publication, which regulates the news media, outlined the main tasks for news regulators during the second half of 2009, including "painstakingly organizing and leading news units to carry out news propaganda work welcoming the 60th anniversary of the nation's founding."[60] Liu also called for propaganda on the Xinjiang Uyghur Autonomous Region's economic and social development and ethnic solidarity and to provide "ideological guarantees" and "public opinion support" for the work of the Party and nation. In a speech in June 2009 on the occasion of the 60th anniversary of Jiangxi Daily, Jiangxi provincial Party Secretary Su Rong said journalists must uphold the "Marxist view of journalism" and quoted former Party chairman Mao Zedong as saying "to do news work, the politicians must run the newspapers."[61]

COMMUNIST PARTY DIRECTS MEDIA COVERAGE

This past year, the Party's view of the news media as a mouthpiece continued to be reflected in Party directives restricting news reporting of certain topics deemed politically sensitive. The primary source of such directives, the Party's Central Propaganda Department (CPD), informs publishers and editors what stories can and cannot be covered and how to cover certain topics, and in some cases instructs news media to run only stories from Xinhua, the official news agency of the central government.[62] The following table indicates some of the publicly known directives over the past year.

Restricted Topic	Restriction
December 2008—Arrest of a reporter at China's only national television station, CCTV.[63]	Ban on all media coverage.
January 2009—Charter 08.[64]	Media may not interview or write about Charter 08 signers.
February 2009—Massive fire near CCTV's headquarters.[65]	Media not to publish photos, videos, or indepth reports. Only run Xinhua reports.
March 2009—Shoe-throwing incident during Premier Wen Jiabao's visit to Cambridge University.[66]	Followup reporting and news commentary prohibited.
March 2009—China's 4 trillion yuan (US$586 billion) stimulus package to revive the economy.[67]	Media ordered to provide "positive propaganda" and avoid "negative guidance" and "commentary."

Restricted Topic—Continued	Restriction—Continued
March 2009—Shanghai news media report on China's increased holdings of U.S. stock.[68]	Media should remove the report or not carry it.
June 2009—Public criticism of a government plan to require "Green Dam" filtering software in all computers sold in China.[69]	Media not to "publish discussion questioning or criticizing" the government's plan, but instead to "expand positive guidance."
June 2009—Protests following contested presidential election in Iran.[70]	Ban on criticism and comments on Iranian government's measures to control protests. Only reports from Xinhua and People's Daily allowed to be published.
August 2009—Chinese activists.[71]	Media ordered not to report on or publish essays by 247 persons, including Liu Xiaobo.

The directives are not transparent, and officials interviewed by the Commission denied their existence.[72] In a prominent case from 2005, one court found that such directives are state secrets and sentenced the journalist Shi Tao to 10 years in prison for leaking a directive to an overseas Web site.[73] In February 2009, the Deputy Director of the Yunnan Provincial Party Propaganda Department publicly acknowledged the ability of propaganda officials to dictate news coverage.[74] During a domestic media interview, Deputy Director Wu Hao said "the propaganda department still has the power to direct the media. We can order the media to not report or comment . . ."[75] In April, officials at one television station acknowledged that they received broad guidance on major topics such as coverage of large-scale disasters, the 2008 Beijing Summer Olympic Games, and the 60th anniversary of the founding of the People's Republic of China, but enjoy greater independence in the areas of science and technology, entertainment, and current affairs.[76]

OFFICIALS PUNISH JOURNALISTS AND NEWS MEDIA FOR REPORTING

This past year, Party and government officials continued to punish journalists and news media for attempting to cover "politically sensitive" stories or because they published such stories. In September 2008, the Inner Mongolia Press and Publication Bureau ordered suspension of publication of the China Business Post for three months after the paper published a report critical of the state-run Agricultural Bank of China, which at the time was preparing for a stock offering.[77] The paper said unspecified "higher-level officials" had punished it for failing to follow the requirement that "significant and sensitive news stories must be verified with the party being reported on before publication" and for disregarding a ban on "cross-regional reporting," in which newspapers reporting about events in other localities had once enjoyed some leeway.[78] In November 2008, Li Changchun, a member of the Party's Politburo Standing Committee, reportedly ordered the removal

of a publisher at Yanhuang Chunqiu after the magazine published an article in memory of former Party General Secretary Zhao Ziyang, who died in 2005 after spending 16 years under home confinement following the 1989 Tiananmen protests.[79] In January 2009, authorities in Shanxi province reportedly suspended two journalists and two editors for producing a television episode on the potential bankruptcy of a Linfen city textile mill and the uncertain future of the mill's 6,300 workers.[80]

GOVERNMENT REGULATION OF THE NEWS MEDIA AND PUBLISHING

The government continues to rely on prior restraints on publishing, including licensing and other regulatory requirements, to restrict free expression.[81] No one may legally publish a book, newspaper, or magazine, or work as a journalist in China, unless they have a license from the General Administration of Press and Publication (GAPP), the government agency in charge of regulating the news media and publishing industry.[82] Chinese law requires that every book, newspaper, and magazine have a unique serial number, and the GAPP maintains exclusive control over the distribution of these numbers.[83] To obtain a license to publish news, applicants must meet financial requirements and must have a government sponsor, although sponsors vary in degree of oversight.[84] The Central Propaganda Department (CPD) closely collaborates with government agencies to control the press.[85]

The government continued to use its licensing authority to violate freedom of the press. In July 2009, Beijing public security officers and officials from the Beijing City Cultural Law Enforcement Agency raided the offices of Beijing Yirenping Center, a public health non-governmental organization, and confiscated more than 90 copies of the center's "China's Anti-Discrimination Legal Action Newsletter." The officers claimed Yirenping failed to possess the necessary permits to publish the newsletter.[86] From January to July 2009, officials reportedly seized 1.35 million "illegal" newspapers and periodicals.[87] Authorities continued to use Article 225 of the PRC Criminal Law, which defines operating a publishing business without government permission as an illegal business activity,[88] to fine and imprison publishers. In June 2009, a Beijing court sentenced bookstore owner Shi Weihan to three years' imprisonment under Article 225 because Shi had printed and given away Bibles.[89]

The government continued its campaign to target publications for their political and religious content. Chinese regulations include vague and sweeping prohibitions on the publication of material that "undermine the solidarity of the nations, or infringe upon national customs and habits," "propagate evil cults or superstition," or "harms the honor or interests of the nation."[90]

- In December 2008, GAPP issued a notice calling on customs officials to focus on "illegal publications" and "'Falun Gong' and other 'cults' propaganda materials."[91]
- The State Administration of Industry and Commerce reported in January 2009 that it targeted "illegal political publications" in the runup to the 2008 Olympic Games and that rooting out such publications would remain a priority in 2009.[92]

- In April and May 2009, local and provincial governments across China issued notices launching a special campaign targeting "illegal political publications."[93] The Fujian Provincial Transport Administration Department, for example, issued a notice that placed the focus on publications that "slandered the country's political system, distorted the history of the Party, the country's history, the military's history, slandered the Party and the country's leaders, publicized 'Falun Gong' and other evil cults, and incited ethnic splittism."[94]
- In March 2009, Harbin city police in Heilongjiang province reportedly seized more than 2,000 copies of "illegal political publications" including some relating to the Gang of Four and another 30,000 "illegal political publications" relating to famous Party leaders such as Mao Zedong and Zhou Enlai and other books on Chinese politics and history.[95]
- In April 2009, officials in Lhasa, the capital of the Tibet Autonomous Region, reportedly burned more than 1,000 copies of "illegal political" publications and "Dalai clique splittist" publications.[96]
- In 2009, Xinjiang Uyghur Autonomous Region authorities established a fund to reward efforts to "purify" the cultural market, with a focus on "illegal" religious and political publications.[97] [See Section IV—Xinjiang—Controls Over Free Expression and Assembly for more information.]
- Authorities have confiscated Bibles imported to the country,[98] and in the past year, officials confiscated Bibles in raids on house churches.[99] [See Section II—Freedom of Religion—Controls Over Religious Publications for more information.]

This past year, officials strengthened oversight over journalists.[100] A January 2009 GAPP circular announced that journalists and editors working for Chinese news organizations must exchange their current press cards, which they are required to have to legally practice their profession, for new ones, affecting approximately 260,000 news personnel.[101] The Chinese Government claims that government licensing and supervision of journalists and editors is needed to prevent corruption and protect journalists.[102] International experts on freedom of expression, however, have declared such licensing schemes for print media unnecessary and subject to abuse and have found press accreditation appropriate only where necessary to provide access to certain places and events.[103] GAPP also announced creation of a black list of journalists who "violate laws and regulations or professional ethics" and have had their press cards revoked.[104] The current code of professional ethics, which was last revised in 1997 and reportedly will be further amended by November 2009,[105] requires news workers to "make great efforts to learn and propagate Marxism-Leninism, Mao Zedong Thought, and Deng Xiaoping's theory of constructing socialism with Chinese characteristics" and "firmly implement the Party's basic orientation and principles."[106]

This past year, the government continued to link the professional training and selection of journalists with requirements for political loyalty. In April 2009, the CPD, the Central Office for Overseas Publicity, the State Administration of Radio, Film, and Television, GAPP, and the All-China Journalists Association issued a circular

launching a campaign called the "Three Items To Study and Learn" (*sanxiang xuexi jiaoyu*).[107] The circular calls for "further strengthening the political quality of editors and journalists," and "guaranteeing the correct orientation of news propaganda work."[108] It notes that in recent years a large number of young journalists have risen in the ranks, "making it even more necessary to help them practically grasp the Marxist view."[109] An important goal of the campaign is to help news workers develop the capacity to avoid "ideological errors" and to "persist in using the Marxist view to correctly analyze and guide news practice."[110]

FACTORS PROVIDING MEDIA SOME SPACE, WHILE THE PARTY SEEKS TO MAINTAIN CONTROL

Commercialization of news media

Over the last three decades, authorities have encouraged the proliferation of news media that depend less on financial subsidies from the government but have not sought to relinquish Party control over content.[111] Commercialization has resulted in less severe state control, but all legal media in China remain "state-controlled" in the sense that they are still subject to propaganda directives and prior restraints such as being required to have a government sponsor. Some major media, such as Xinhua, People's Daily, and CCTV, remain directly under the control of the government or Party and have as their main purpose the communication of the official line.[112] A few more market-oriented media, including Caijing[113] and Southern Metropolitan Daily, have developed a reputation for greater independence.[114] Editors at these organizations, however, proceed cautiously and have been punished by officials in the past.[115]

Officials continue to use commercialization to serve their own interests. They cite the numerical growth in newspapers, magazines, and journalists as evidence itself of press freedom.[116] They also express a desire to create market-friendly media to facilitate the spread of propaganda and China's "soft power." President and Party General Secretary Hu Jintao said in his June 2008 speech that commercial media need to be co-opted into a "new setup for public opinion guidance."[117] In March 2009, the deputy secretary of the Guangdong Provincial Party Committee, Liu Yupu, spoke to journalists in Shenzhen about the effects of the global economic downturn, telling them they were "the most critical mouthpieces" of the Party and government and must "strengthen their own sense of political responsibility," while at the same time making their news "more readable and watchable . . ."[118] In April 2009, the government announced a plan to de-link most news publishers from the government and create five or six commercially viable media conglomerates whose aim would be to "raise the nation's combined national power and cultural soft power."[119] The plan reflects official concern over the perceived dominance of foreign "Western" media in shaping China's image[120] and coincided with other recent policies to greatly expand China's media presence abroad. In January 2009, for example, the central government announced plans to spend 45 billion yuan (US$6.6 billion) to improve the nation's image through the overseas expansion of three major

state news media: CCTV, Xinhua, and People's Daily.[121] While one Chinese academic said the de-linking policy could lead to less censorship,[122] the guiding opinion announcing the policy noted the need to maintain the "Party's leadership of news publishing work."[123]

Government continues to promote limited watchdog role for journalists

Some aspects of the Party's policy toward the media serve the Party's interests but also give the news media some space to report. Under a policy called "public opinion supervision," journalists are encouraged to cover abuses and corruption at the local level, so long as it does not threaten the center, as a way of keeping central officials informed of local problems.[124] Governments at all levels are urging officials to cooperate with journalists. For example, a November 2008 GAPP circular stated that "[n]o organization or individual should interfere with or obstruct" the "legal reporting activities" of news personnel.[125] In July 2009, authorities in Kunming city, Yunnan province, reportedly proposed a regulation that imposes punishments on officials who interfere with "news media carrying out public opinion supervision in accordance with the law."[126]

This past year, the Commission observed some media issuing reports questioning government policies. Chinese media published stories critical of the confinement of petitioners in psychiatric hospitals,[127] black jails [see Section II—Criminal Justice, for more information],[128] the behavior of delegates to the National People's Congress session in March 2009,[129] abuses at detention centers,[130] a government policy to require all computers sold in China to come with pre-installed filtering software,[131] and the August 2009 trial of a prominent activist.[132] The extent to which media can report on such issues and the boundaries for reporting are unclear, although coverage of such topics as the "military, religion, ethnic disputes, the inner workings of government" is reportedly off-limits.[133] Some media may have greater leeway because, as in the case of Xinhua, People's Daily, and CCTV, they are backed by top central leadership.[134] Chinese officials also may allow certain stories to be published in English-language domestic media but not in the Chinese-language media.[135]

Controlling the news agenda to counter Internet and international media

The increasing influence of China's Internet and a greater focus on competing with international media for reporting on China have led the Party to adapt its strategy of maintaining control through faster official reporting of some events while at the same time increasing censorship of nonofficial channels of information. In June 2008, President Hu said the Internet had become a significant source of information that needed to be managed better.[136] He called on news reports on "sudden-breaking public events" (*tufa shijian*) to be released immediately so that the government could take the initiative in "news propaganda work."[137] Hu also called on journalists to help change international opinion that still reflects a "West is strong, we are weak" pattern. In an October 2008

article in the Party journal Seeking Truth (*Qiushi*), Central Propaganda Department Director Liu Yunshan praised the Party's propaganda response to Tibetan protests (and rioting) in Tibetan areas that began in March 2008 as having effectively "influenced international opinions."[138] The Commission noted in its 2008 Annual Report the development that the Party had begun to allow journalists to report certain major breaking news more quickly and without official approval, so long as they toed the Party line.[139]

The trend of quicker reporting, accompanied by increased censorship of unofficial channels, continued this past year. Following a demonstration by Uyghurs and violence in the Xinjiang Uyghur Autonomous Region (XUAR) in July 2009, Xinhua issued reports early on and provided regular updates, mostly in English, that overseas media relied upon.[140] At the same time, authorities shut down numerous Web sites and deleted posts on Internet forums that contained descriptions or pictures of the protests.[141] The government has sought to capitalize on this trend of quicker reporting.[142] During the February 2009 session of the UN Human Rights Council's Universal Periodic Review of the Chinese Government's human rights record, the Chinese delegation cited media coverage of the contaminated milk scandal in the fall of 2008 as evidence of press freedom.[143] As noted in the Commission's 2008 Annual Report, however, one newspaper that had discovered cases of sick children was unable to publish the story because of censorship before the 2008 Olympic Games, and officials banned commentaries and news features about the tainted milk products.[144]

FOREIGN AND NON-MAINLAND JOURNALISTS WORKING IN CHINA

Foreign journalists reporting in China face fewer restrictions than domestic journalists but continued to face harassment. As a result of China hosting the Olympics in 2008, since January 2007 foreign journalists allowed into China may report without additional government permission, with the notable exception of closed-off areas such as the Tibet Autonomous Region.[145] In October 2008, officials issued permanent measures enshrining this policy.[146] For Hong Kong, Macau, and Taiwanese journalists, however, new rules issued in February 2009 reinstated an official approval requirement for reporting.[147] Despite the positive legal change for foreign journalists, they continued to report instances of official harassment. In March 2009, the Foreign Correspondents' Club of China (FCCC) criticized detentions and closed access as reporters tried to visit Tibetan areas one year after protests that began in March 2008.[148] In July 2009, FCCC welcomed the "relatively open access" for foreign journalists traveling to the XUAR to cover the aftermath of the July 5 demonstration in the capital of Urumqi.[149] Chinese officials reportedly allowed about 60 foreign journalists to travel to Urumqi on a government-arranged reporting trip and set up an on-site media center for them.[150] The FCCC, however, cited "serious concerns," including officials ordering journalists to stop reporting and ordering them to leave certain areas, including the city of Kashgar.[151]

While conditions for foreign reporters may be improving, officials appear to be increasing pressure on Chinese sources and colleagues. At a Commission roundtable in July 2009, one foreign cor-

respondent reported that "as the rules have more aligned with international reporting standards, harassment and intimidation may be 'going underground.' The pressure seems more often directed at vulnerable Chinese sources and staff." She noted a new code of conduct for Chinese news assistants that reminded them that it was illegal to conduct independent reporting and urged them to "promote positive stories about China."[152] As noted elsewhere in this section, this past year officials warned Chinese citizens not to speak to foreign journalists and punished them for doing so.[153]

Access to Information

CENSORSHIP OF THE INTERNET AND CELL PHONES

Internet censorship violates international human rights standards

The Chinese Government's regulation of the Internet and other electronic communications continued to violate international standards for free expression. Article 19 of the International Covenant on Civil and Political Rights guarantees the right to "seek, receive and impart" information "of all kinds, regardless of frontiers," through any media of one's choice.[154] Article 19 permits restrictions on this freedom, provided they are prescribed by law and are necessary to protect the rights or reputations of others, national security, public order, or public health or morals. Chinese officials exceed these allowances, however, because their extensive censorship of the Internet and cell phones is not limited to the removal of content such as pornography, spam, or content deemed to violate intellectual property rights, but also political and religious content the government and Communist Party deem to be politically sensitive. Chinese officials continued to defend restrictions on the Internet as necessary and based in law,[155] and in line with international human rights standards[156] and the practice of other countries.[157] They have also characterized their investment in information technology as done to "strengthen the infrastructure that allows citizens to fully enjoy freedom of speech."[158] At the same time, the Party has sought to reap the benefits from the Internet's expansion, to aid in dissemination of Party propaganda and to support China's economic development.[159]

The Internet continued this past year to serve as an important outlet for individual expression and criticism of government policies. According to statistics from China Internet Network Information Center, the state network information center, China has more Internet users than any country in the world, and the figured reached 338 million in June 2009.[160] As of March 2009, there were 670 million cell phone users in China, and as of June 2009, 155 million cell phone users accessed the Internet through their phone.[161] According to Freedom House, the Internet is freer than traditional media because of its "egalitarian nature and technical flexibility."[162] As in recent years, citizens this past year used the Internet to organize protests, expose corruption among local officials, and oppose government policies. Internet users reportedly played a significant role in raising awareness about the Deng Yujiao case involving a young woman who stabbed a local official to death to thwart an attempted rape.[163] In March 2009, a local of-

ficial in Hunan province lost his job after Internet users posted receipts showing lavish spending at a karaoke club.[164] After Internet users, citizens in China, and domestic media, as well as foreign governments and companies, criticized a government requirement that all computers sold in China include censorship software, officials backed away from the plan.[165] The presence of online criticism, however, does not signal the government's intent to allow greater freedom of expression on the Internet in line with international standards. As noted here and elsewhere in the section, the government continues to control media reporting that appears on the Internet, to block, filter, and remove political and religious content, and imprison citizens such as Tan Zuoren, for using the Internet to disseminate criticism of the government.

Blocking social networking, human rights, and other politically sensitive Web sites

Officials continued to shut down or block access to domestic and foreign Web sites because of those sites' political or religious content. Authorities reportedly ordered the closure of the domestic "Rights Defense China" Web site in October 2008 for posting "sensitive information." [166] In January 2009, the Beijing Municipal Government's Information Office reportedly ordered the closure of the blog hosting Web site Bullog (www.bullog.cn) after the site failed to remove large amounts of "harmful information" relating to current events and politics.[167] In March 2009, authorities repeatedly shut down the multi-language Web site Uyghur Biz (also known as Uyghur Online) and interrogated Beijing-based Uyghur scholar Ilham Toxti (Tohti), who runs the site.[168] In July, the technology pages of Sina.com and Netease.com, two popular domestic news portals, were shut down for several hours after posting articles about a corruption investigation in Namibia involving a company that had been overseen by President Hu Jintao's son.[169]

Authorities continued to block domestic access to foreign news and human rights Web sites, including the Commission's Web site,[170] and blocked search engines and social networking sites during politically sensitive periods throughout the past year. In August 2009, the Chinese military newspaper PLA Daily warned that Twitter and YouTube were being used by Western forces as subversive tools, citing their use by those opposed to election results in Moldova and Iran.[171]

- In December 2008 and January 2009, officials reportedly blocked the Chinese-language sites for the BBC, Voice of America, and Deutsche Welle, YouTube's Hong Kong and Taiwan sites, and the Web sites for the New York Times, Amnesty International, and the Hong Kong-based news organizations Ming Pao, Asiaweek, and Apple Daily, after some of the sites were unblocked for the 2008 Olympic Games.[172]
- In March 2009, Google reported that its YouTube site was being blocked in China. Prior to the block, a video was posted on the Web site purportedly showing Chinese police beating Tibetans during protests in March 2008.[173]
- In June 2009, days before the 20th anniversary of the 1989 Tiananmen protests, authorities reportedly blocked access to the social networking site Twitter, the blogging portal

MSNSpaces, the photo-sharing site Flickr.com, and the Microsoft search engine Bing.com.[174]

• In July 2009, authorities reportedly blocked access to Twitter, YouTube, and Fanfou.com, a domestic micro-blogging site similar to Twitter, following the July 5 demonstration in Urumqi and outbreaks of violence starting that day.[175] Two other domestic micro-blogging Web sites, Digu and Zuosa, also went out of service during this time, with a spokeswoman from one of the companies saying "it's a sensitive period, so we are not in a rush to re-open it."[176]

Active filtering and removing of political and religious content

Chinese authorities and companies offering Internet content in China continued to filter and remove political and religious content from the Internet. Internet regulations, which apply to cell phone service as well,[177] prohibit not only dissemination of pornographic and defamatory content, but political and religious content under broad and vague prohibitions on information "harming the honor or interests of the nation," "disrupting the solidarity of peoples," "disrupting national policies on religion," and "spreading rumors," the meanings of which are nowhere defined in Chinese law.[178] The Chinese Government monitors the Internet through a large number of public security officials and agencies overseeing the Internet and places a legal burden on companies providing Internet and cell phone services to filter and remove content. Companies providing Internet or cell phone services in China, including those based in other countries, are required to monitor and record the activities of its customers or users, to filter and delete information the government considers politically sensitive, and to report suspicious activity to authorities.[179] The law's vagueness and the consequences for companies who allow too much information lead many companies to err on the side of censoring more information.[180] In addition, the lack of clarity leads to wide variation in the level of censorship companies practice.[181] In July 2009, the government reportedly issued a secret directive that strengthens monitoring of comments posted by Internet users on Chinese news Web sites. The directive forces such Web sites to require new users to provide their real name and identification number in order to post a comment, a move that could have a chilling effect on free expression.[182]

This past year, officials and companies continued to filter political and religious content critical of China's top leaders, human rights record, policies toward Tibetan areas of China and the Xinjiang Uyghur Autonomous Region, and information relating to Falun Gong and the 1989 Tiananmen protests.[183] In April 2009, China Digital Times reported that Chinese Internet users were circulating leaked documents from Baidu, which runs China's top search engine.[184] The documents provide lists of topics and words to be censored, including references to petitioners, the 1989 Tiananmen protests, Falun Gong, and China's leaders.[185] The China-based search engines of Yahoo!, MSN, and Google also filter politically sensitive information.[186] In October 2008, these companies and other participants announced the formation of the Global Network Initiative, a coalition of companies, human rights groups, and Internet experts, whose purpose is to encourage companies to

comply with principles of freedom of expression and to submit to monitoring by independent experts.[187]

Examples of filtering politically sensitive content this past year include:

- After Chinese citizens posted online Charter 08, a document calling for political reform and greater protection of human rights, in December 2008, references to the Charter appeared to have been removed from the Internet, according to searches carried out using the Baidu, Sina, and Google.cn search engines.[188]
- In March 2009, Internet and cell phone text messaging services were reportedly disrupted in Tibetan areas of western China ahead of a series of dates that many Tibetans consider to have a high level of cultural and political sensitivity.[189]
- In March 2009, authorities began to censor references to the "grass-mud horse," a Chinese word that sounds like an obscenity, after Internet users began using the term to protest a government crackdown on "vulgar" content on the Internet.[190]
- Reporters Without Borders issued a report in June confirming the continued censorship of Internet searches in China for references to the 1989 Tiananmen protests.[191]
- In August 2009, China Daily reported that Google.cn and Baidu had blocked searches for Xu Zhiyong, the law professor and rights defender who had been detained on charges of tax evasion.[192]

Chinese officials also continued to enlist citizens to help monitor the Internet and influence public opinion. In recent years, authorities have paid commentators known as the "50-Cent Party" to promote the Party's views in online forums and to report "dangerous" content to authorities.[193] In June 2009, Xinhua reported that Beijing officials were recruiting tens of thousands of volunteers by year's end to monitor the Internet and report "lewd" content or Internet users showing "uncivilized behavior" while surfing the Internet.[194]

Officials continued this past year to label campaigns to remove content as aimed at "vulgar" or pornographic content, but guidance issued by the government included political content as well.[195] For example, this year officials launched a campaign against "vulgar" content on the Internet and targeted audio- and video-hosting Web sites. The State Administration of Radio, Film, and Television issued a circular in March 2009 requiring Internet audio-visual program service providers to edit or delete programs containing, among other things, "distortions of Chinese culture," "disparaging or mocking depictions of revolutionary leaders, heroes, and important historical figures," or "disparaging depictions of the PLA, people's armed police, the public security bureau, or the judiciary."[196]

Officials continued to acknowledge their ability to monitor and delete information on the Internet and expand their capabilities. In February 2009, Liu Zhengrong, a top official at China's Internet Affairs Bureau, urged heightened vigilance this year, telling colleagues to "check the channels one by one, the programs one by one, the pages one by one. You must not miss any step."[197] The Deputy Director of the Yunnan Party Propaganda Department said in a February 2009 media interview that "we can delete all incon-

venient, or negative, online posts one by one."[198] According to one Party scholar, local officials delete unfavorable commentary about them on the Internet and render the IP address of those computers inactive; on occasion they trace the comment and retaliate.[199] [See box titled Defamation above.] In March 2009, the deputy director of the General Administration on Press and Publication, which also regulates online publishing, said that the agency would soon have the capability to monitor content on hundreds of thousands of publishing Web sites.[200] Chinese scientists are reportedly developing better software to detect "undesirable content."[201] Officials this past year also sought to extend their ability to censor beyond the network level to the level of an individual computer. [See box titled Green Dam below.] While the government ultimately backed away from its Green Dam initiative, officials reportedly required all Internet service providers to install the Landun (Blue Shield) software on their servers by September 13, 2009, or face penalties.[202] Blue Shield (also known as Bluedon or Blue Dam) blocks Web sites and records users' online activities, and is reportedly much more effective than Green Dam.[203]

Green Dam

In May 2009, the Ministry of Industry and Information Technology (MIIT) issued a circular requiring that computers sold within mainland China after July 1, 2009, must come "pre-installed" (*yu zhuang*) with the government-approved "Green Dam-Youth Escort" Internet browsing filtering software.[204] The order did not become public until June 9 and prompted domestic and international concerns over freedom of expression, the software's security, lack of notice and transparency, and the legality of the move under China's competition, monopoly, and procurement laws.[205] Officials claimed the move was intended to protect young people from "harmful information," but editorials in the official China Daily and Caijing questioned why the requirement applied to all computers sold and raised concerns about who would determine what content to block.[206] Tests conducted by several outside sources found that, in addition to pornographic content, the software also filtered political and religious information, including references to Falun Gong. OpenNet Initiative (ONI), one of the groups that tested the software, also found that the software "actively monitors individual computer behavior."[207] ONI warned that the policy of filtering at the level of personal computers would "increase the reach of Internet censorship to the edges of the network, adding a new and powerful control mechanism to the existing filtering system."[208] The requirement also applied to foreign manufacturers, who criticized the lack of transparency and short notice and called for reconsideration of the requirement.[209] U.S. Secretary of Commerce Gary Locke and U.S. Trade Representative Ron Kirk issued a joint letter to the MIIT and Ministry of Commerce protesting the policy. "China is putting companies in an untenable position by requiring them, with virtually no public notice, to pre-install software that appears to have broad-based censorship implications and network security issues," Locke said.[210] On June 30, 2009, the MIIT announced that it would delay the requirement,[211] although some companies continued with efforts to comply.[212] In August, the MIIT's minister announced that it would not force all computers to come with the Green Dam software.[213]

Prior restraints: government licensing of Web sites

The government requires all Web sites in China to be either licensed by, or registered with, the Ministry of Information Industry (MII),[214] with additional licenses required for sites providing news content[215] or audio or video services.[216] Web sites that fail to register or obtain a license may be shut down and their operators fined. An October 2008 People's Daily article said that the State Administration of Radio, Film, and Television was planning to target Web sites operating without a license for audio and video programs.[217]

Technical and legal challenges to censorship

Chinese citizens continue to take advantage of proxy servers and to employ other techniques to access and share information that the government has attempted to block or filter. After a demonstration and outbreaks of violence took place in Urumqi, XUAR, in early July 2009, authorities cut Internet access in the area,[218] and appeared to block nationwide access to Twitter and YouTube, re-

move comments about the demonstrations from Web sites, and filter Internet searches.[219] Despite these measures, citizens were reportedly able to send pictures, videos, and updates from Urumqi; in some cases, content was posted on sites outside China in order to save the content.[220]

Over the past year, citizens have filed lawsuits against Internet companies for censoring their online material. In January, a Beijing company executive and former standing committee member of the Anhui Province People's Political and Consultative Conference, filed a lawsuit with the Haidian District People's Court in Beijing against Sina.com after his blog was blocked the same day he posted an essay calling for political reform.[221] In a potentially significant ruling, one court in Beijing ruled in May 2009 that there are limits to Internet companies' censorship of user content, the first time an Internet user has won such a case.[222] In that case, an economics professor challenged the decision by Beijing Xin Net to shut down the professor's Web site after he posted articles calling for the abolition of China's reeducation through labor system. The court, although not addressing free speech issues, ruled that the company violated the user contract by not providing proof of its claim that the site contained objectionable content and failing to show that it had requested the content be changed. In June 2009, Huang Zhijia, a judge in Hubei province, filed a lawsuit in Beijing's Haidian District Court against Sina.com after it took down one of his blogs in which he accused the Party School of granting him an unrecognized diploma.[223] In explaining how Sina.com applies government regulations, a customer service representative said the company works with public security officials to filter violent and pornographic content as well as "radical political comments."[224]

Blocking of foreign tv, radio

The government continued to impose restrictions on Chinese citizens' access to overseas TV, radio, and news. Access to foreign TV stations is generally restricted to hotels and foreign residences, and transmissions have been interrupted when politically sensitive stories about China appear.[225] China's sole national television station, CCTV, began a live broadcast of U.S. President Barack Obama's inaugural address in January 2009, but cut away after a politically sensitive portion of the speech, which was later deleted from official "full" translations appearing in Chinese media.[226] Chinese officials repeatedly pit the "Western" media in a battle against China, this year urging China to step up jamming of "hostile" foreign broadcasters such as the Voice of America and Radio Free Asia and "foreign enemy" broadcasting stations.[227] In April 2009, China announced that Xinhua would not be regulating foreign financial information providers as part of an agreement in connection with a World Trade Organization complaint.[228] Such financial providers are, however, still subject to China's censorship standards.[229]

Open Government Information

This past year, the Chinese Government continued to express an intent to "guarantee citizens' right of information."[230] In March 2009, Xinhua reported that the Ministry of Finance (MOF) had begun posting the central government's budget on its Web site,

whereas previous data had been available in a finance year book.[231] In June, the MOF and the National Development and Reform Commission announced that by 2010 all government agencies would have Web sites.[232] As the Commission has noted in previous reports, in recent years the Chinese Government has passed regulations to encourage the government's disclosure of information to citizens and improve public access to government information.[233] The Regulations on Open Government Information (OGI regulation) went into effect in May 2008,[234] and this past year citizens tested provisions in the regulations giving them a right to request information[235] and challenge agency refusals to disclose information.[236] Agencies have used a variety of reasons to refuse to disclose information. Agencies have, for example, asked for specific identification numbers of the documents requested, which is impossible because such documents are secret.[237] They have also responded with vague or irrelevant answers, or claimed that the information does not exist or does not fall under the scope of information disclosure regulations.[238] According to the vice president of Peking University Law School, government agencies frequently cite exceptions in the regulations that exempt disclosure of information relating to state and commercial secrets or that threaten national security or public order.[239] The Ministry of Justice, for example, denied Beijing lawyer Xie Yanyi's request for information on reeducation through labor policies saying it related to state secrets.[240]

A main problem, observers say, is the lack of an independent judiciary to enforce implementation.[241] Almost a year after the OGI regulation took effect, a March 2009 Caijing report indicated that courts in every locality had received cases challenging agencies' refusal to release information.[242] Chinese observers of courts' handling of OGI cases, however, have noted a number of problems that have contributed to a low success rate for plaintiffs. Courts reportedly have been reluctant to challenge an agency's determination of a state secret.[243] The OGI regulation contains no provisions to provide courts with guidance on the boundaries of what should not be disclosed because it is a secret.[244] The Supreme People's Court will reportedly issue a judicial interpretation by the end of 2009 that would provide courts with clearer guidance on handling OGI cases.[245] The more fundamental issue is that China's laws loosely define state secrets to cover essentially all matters of public concern. Following passage of the OGI regulation, some scholars had hoped that officials would amend the PRC Law on the Protection of State Secrets to clarify the scope of state secrets to aid in implementation of the OGI regulation.[246] The government is currently reviewing a draft amendment to the law.[247] [See box titled Proposed Revision to State Secrets Law below.]

Proposed Revision to State Secrets Law

In June 2009, the National People's Congress (NPC) Standing Committee reviewed a draft revision of the PRC Law on Guarding State Secrets (State Secrets Law) and the NPC released the draft for public comment,[248] but the proposed changes do not address abuses that occur under the current state secrets legal framework. Currently, the broad and vague definition of "state secrets" in Chinese law and regulations give officials wide latitude to declare almost any information a state secret.[249] Officials use this discretion to deny citizen requests for government information[250] or claim that a citizen possessed or leaked a state secret in order to punish political activity.[251] Furthermore, police can declare that a case involves state secrets to deny criminal defendants basic procedural rights, including access to counsel and an open trial.[252] Citizens cannot challenge such a determination[253] and officials may declare information a state secret retroactively.[254] Chinese academics and media have raised these concerns.[255] In June 2009, the official China Daily issued an editorial that said:

> Government institutions should no longer be allowed unlimited freedom in defining State secrets. The unnecessarily wide scope of State secrets must be streamlined. . . . If citizens continue to shoulder unlimited, and undefined obligations, they should not be left defenseless when accused. There should be legal relief for citizens victimized by abuse of the definition "State secrets."[256]

The proposed draft lacks any substantial provisions to deal with these concerns. The draft law leaves unchanged the broad and vague provisions defining state secrets in the current law (Articles 2 and 8).[257] While at least one academic recommended that drafters consider granting people's congresses or judicial institutions the power to review an agency's state secret determination,[258] the draft law failed to incorporate any independent review mechanism.[259] The draft imposes an affirmative obligation on Internet and telecommunications companies to report the discovery of a disclosure of state secrets and to remove such information upon official request.[260] The draft law also adds administrative fines ranging from 1,000 yuan (US$146) to 50,000 yuan (US$7,321), which may make officials more willing to classify information as a state secret.[261] The draft includes a few modest provisions that may curb some abuses. The draft law, for example, adds a requirement that agencies conduct periodic audits of information classified as a state secret to determine if any should be declassified.[262] Such periodic audits are not provided under the current law.

Despite the OGI regulation, officials continued to hide vital information from the public. It took nearly three months for word to leak out about a July 2008 explosion at an illegal mine in Zhonglou, Hebei province that killed 35 men. The mine owner paid off the families, and local officials issued a false report, while journalists received bribes to remain silent. Two weeks after the accident, officials in Shanxi province announced the deaths of 11 persons in a natural landslide. Investigators, following a tip from the Internet, later discovered that 41 had died.[263] A Shanghai-based Xinhua journalist who exposed a mine disaster coverup in Shanxi province was later summoned to Beijing and told by Xinhua offi-

cials to lay off the story in October 2008.[264] In October, it was discovered that local officials in Liaoning province kept the discovery of melamine-tainted eggs quiet for weeks and ordered a ban on discussing the issue with media.[265] The Beijing News, which had reported the egg coverup, also reported that authorities in Sichuan province failed to publicly announce an epidemic of maggots in mandarin oranges for a month.[266] These incidents followed an alleged coverup of the melamine milk scandal in the runup to the 2008 Olympic Games. In March 2009, China National Radio reported that Henan officials underreported incidences of hand-foot-mouth disease.[267] The Chinese public has also expressed frustration at the government's delay in disclosing the number of children killed in school collapses following the May 2008 Sichuan earthquake.[268] An environmental non-governmental organization announced in June 2009 that it had requested disclosure of information about businesses that had violated environmental regulations from 113 cities, and 86 cities had refused to provide any information.[269]

WORKER RIGHTS

Introduction

Workers in China still are not guaranteed either in law or in practice full worker rights in accordance with international standards, including, but not limited to, the right to organize into independent unions. Despite new laws in 2008 that codified new protections for workers, Chinese workers in 2009, particularly migrant workers, bore the brunt of the global financial crisis. During economic retrenchment and rising unemployment pressure, the Chinese Government focused less on writing labor protections into formal law and lowering reliance on labor-intensive manufacturing and more on maintaining employment and rapid economic growth.

Labor strife increased during the Commission's 2009 reporting period. In May 2009, the Ministry of Human Resources and Social Security announced that labor disputes in 2008 had nearly doubled from a year earlier to reach 693,000 disputes, involving over 1.2 million workers. One official from the Supreme People's Court noted that labor strife has changed in several important ways, including more large-scale, coordinated labor actions.[1] During 2009, local governments reported that this trend is continuing as companies look for ways to reduce employment and maintain flexibility in an uncertain economic climate. These reports also point to the increasing legal and rights consciousness of Chinese workers. Chinese workers have also become more strategic in their use of large-scale, coordinated action outside the workplace, including street demonstrations, traffic blockades, or sit-ins at local government offices. This strategy of escalation is built upon a realization that local governments will often respond quickly to worker actions that threaten social stability and draw the attention of higher level officials. Thus, there is an expectation that escalation is more likely to lead to higher compensation.[2] In some regions with concentrated labor-intensive manufacturing, these large-scale actions are taken after the employer has absconded without paying wages or severance compensation, putting further pressure on local governments to respond.[3]

In response to the increased conflict, especially to collective conflict that is organized and large scale, the government is attempting to redirect much of the labor conflict away from the formal channels of arbitration and litigation toward more "flexible" and "grassroots-level" negotiation and mediation. These forms of dispute resolution often rely on coordination among levels of local government (e.g., provincial, city, town, etc.), involving local government and Communist Party units, the official trade union, and the police and security apparatus.

Given the growing concern of local governments to maintain rapid economic growth and employment, many localities have responded to the 2008 laws (i.e., the PRC Labor Contract Law, PRC Employment Promotion Law, and PRC Labor Dispute Mediation and Arbitration Law) with local opinions and regulations of their own that often have the effect of weakening the employee-friendly aspects of the national law. Provincial-level courts were the main conduit of these local regulations, issuing measures and "guiding opinions" of the national law. Some analysts have argued that this

trend is likely to lead to the "regionalization" and "loopholization" of national law.[4] Localities with large concentrations of foreign direct investment and labor-intensive manufacturing have been the most proactive in this regard, with high court explanations of the laws from Shanghai municipality and Jiangsu, Zhejiang, and Guangdong provinces.[5] The Supreme People's Court also issued a guiding opinion in July 2009 on courts' handling of labor disputes during the economic crisis.[6]

Chinese workers continue to be denied the right to freedom of association. The All-China Federation of Trade Unions (ACFTU), the official union under the direction of the Communist Party, is the only legal trade union organization in China. All lower level unions must be affiliated with the ACFTU. While the ACFTU has become more active, focusing on unionization of foreign-funded firms and organization of migrant workers, and pushing the expansion of collective contracts, the ACFTU continues to be dominated by the local Communist Party with its overarching political concerns of social stability and economic growth. In 2009, the ACFTU continued its drive to unionize foreign-funded enterprises and to press for collective negotiations with management in some companies. In general, however, the union does not act as an autonomous body with workers' rights and interests as its main responsibility. Rather, it facilitates relations between the Chinese Government and Party and employers. With the change in the economy, ACFTU activities in 2009 have not been as vocal or as aggressive as those seen in 2007 and 2008, when, for example, the ACFTU was involved in high-profile organizing of Wal-Mart stores in China. In general, the ACFTU unions are focused on proactive and mediation-based labor dispute resolution and government-led attempts to persuade enterprises to minimize layoffs in exchange for wage reductions and working hours.

National and local governments continue to proceed with social insurance reform, focusing on the expansion of social insurance both in terms of the types offered and the citizens covered. Rural citizens' and migrant workers' social insurance is also being expanded. Some localities are experimenting with programs that allow for more portable social insurance so that migrant workers can take their social insurance benefits with them when they switch jobs and relocate to other cities. The draft PRC Social Insurance Law was released for public comment in late 2008 and is expected to be passed by the end of 2009.[7]

National-Level Legislative Developments

In 2008, the central government passed three major new laws on labor and employment: the PRC Employment Promotion Law, the PRC Labor Contract Law, and the PRC Labor Dispute Mediation and Arbitration Law. The year 2009 was a year for local implementation and experimentation as the new laws took effect shortly before the global economic downturn. The National People's Congress undertook several study trips to investigate local implementation and enforcement of the Chinese Government's labor codes, and the central government continued to promote the laws despite complaints from some local governments and employers that the new laws were too harsh for China's current economic climate. As there

was with the initial debate during the legislative process leading to issue of the Labor Contract Law, there remain signs of a lack of consensus about the effects of the new labor legislation on different regions and types of workers.[8]

THE SUPREME PEOPLE'S COURT GUIDING OPINION

In July 2009, the Supreme People's Court (SPC) issued a guiding opinion urging courts, when handling labor disputes during the economic crisis, to consider the interests of both labor and enterprise management, and to do so in a manner that both preserves "social stability" and is consistent with national economic policy.[9] According to SPC officials, this opinion was a reaction to the unprecedented pressure on courts to resolve a very large number of disputes even as disputes have grown more complicated and contentious.[10] The guiding opinion attempts to balance continued emphasis on protection of workers' rights (that was reflected and promoted in the 2008 legislation) and the realization that employers might simply close down if not given assistance during the economic crisis. The opinion emphasizes the need to protect workers' "right to existence" while recognizing the difficult economic position of many enterprises.[11] The guiding opinion follows a long list of national and local administration instructions to employers to minimize layoffs[12] and to seek consultation with employees, the trade union, and the local labor bureau when handling disputes, especially disputes related to layoffs.[13]

OTHER MEASURES RELATED TO LABOR RELATIONS DURING THE GLOBAL ECONOMIC CRISIS

In addition to the local regulations detailed below, the central government, the All-China Federation of Trade Unions (ACFTU), and other units issued several circulars and instructions related to labor relations during the global economic crisis. On December 20, 2008, the Ministry of Human Resources and Social Security (MOHRSS) and the Ministry of Finance and State Administration of Taxation issued the Circular on Easing the Burdens on Enterprises and Stabilizing Labor Relations.[14] This circular permits enterprises to temporarily suspend payment of social insurance contributions for six months.[15] On January 23, 2009, the MOHRSS, the ACFTU, and the Chinese Enterprise Directors Association (CEDA) jointly issued the Guiding Opinion on Tackling the Current Economic Situation and Stabilizing Labor Relations.[16] This opinion reiterated the government's preference for companies to use alternative strategies to avoid layoffs, including wage reductions, vacation time, and flexible working hours.[17] Grassroots trade unions were also instructed to educate their workers to support employers' strategies.[18] This opinion was particularly concerned with wage arrears and advised methods to reduce the impact of sudden non-payment of wages.[19] The opinion also called for local governments, trade unions, and employers to work together to resolve any collective disputes that might emerge from factory closures and large-scale layoffs.[20]

On January 5, 2009, Legal Daily reported the ACFTU, the MOHRSS, and the CEDA convened a meeting in Beijing to discuss tripartite bargaining and announced their intention to implement

a "Rainbow Plan" across China to initiate collective wage negotiations. Speakers at the conference, however, emphasized neither conflict between employers and employees nor the need to protect workers' rights. Rather, officials spoke of the need to find common ground during the crisis and to emphasize "stable employment" and "harmonious labor relations." [21]

DRAFT SOCIAL INSURANCE LAW

The National People's Congress (NPC) addressed a key issue related to workers' rights and livelihood—social insurance. The draft Social Insurance Law was released for public comment in December 2008. The draft law received more than 70,000 comments as the central government made an ambitious attempt to standardize social insurance for workers and to provide more comprehensive and portable insurance for employees generally, but especially for highly mobile migrant workers. The first step for this new welfare system is the creation of a social security system nationwide based on citizens' identification card numbers.[22] According to an interview with Hu Xiaoyi, the Vice Minister of the Ministry of Human Resources and Social Security, the distribution of about 80 million social security cards was approved.[23]

The draft law gives citizens, urban and rural, the possibility to receive retirement pensions and insurance for medical care, work-related injuries, unemployment, and maternity.[24] Both employers and workers are responsible for paying the respective insurance premiums and fees (except that, for work-related injuries and maternity, only the employer has the responsibility to pay the insurance premiums).[25] Employers are also subject to heavy legal liabilities if they do not pay the corresponding insurance premiums and/or partake in fraudulent actions.[26]

One of the most important issues for citizens is the portability of insurance, especially for those citizens who migrate to different cities. In the draft law, citizens can pay retirement premiums in one location and receive payments in another.[27] Medical insurance and unemployment insurance can also be transferred accordingly.[28] At the same time, the draft law describes, as well, the establishment of a new cooperative healthcare system in rural areas in the medical insurance plan, funded by both farmers and local governments.[29] Further, according to this draft law, the government will cover the medical insurance fees for individuals who live on minimum income subsidies, are disabled, or are more than 60 years old.[30] Unemployed workers, may receive unemployment payments for a maximum of 24 months, depending on the accumulated amount of time these workers and their employers have been paying unemployment insurance.[31]

Overall, the draft insurance law seems to offer positive alternatives for mobile workers who are seeking better retirement plans and medical insurance. Implementation of the final law, however, will be the responsibility of local governments. The China-European Union Intergovernmental Social Security Reform Cooperation Project, launched in April 2006, is a five-year program providing technical assistance and expertise in building social insurance programs. There currently are about 20 pilot projects nationwide.[32]

Local-Level Legislative and Regulatory Developments

In 2009, several localities released high court opinions of the 2008 legislation (i.e., the PRC Labor Contract Law, PRC Employment Promotion Law, and PRC Labor Dispute Mediation and Arbitration Law). This judicial activity was focused in the south and the southeast with judicial opinions issued in Shanghai municipality and Jiangsu, Zhejiang, and Guangdong provinces. These opinions included some important clauses that benefited employers, and in so doing may weaken the impact of protections for workers contained in the national laws.[33] There is growing concern that given the economic crisis, local governments are increasingly opposed to implementation of the 2008 labor laws and are using local measures to pass locally specific rules that will protect employers against some provisions of the new laws that employers regard as more onerous.[34] In 2009, local regulatory activity was concentrated in the courts. Judicial opinions and explanations are not subject to the same degree of transparency or participation required in local legislative institutions, so these rules are not publicly debated, nor are they produced jointly by "competing" interests such as the All-China Federation of Trade Unions and the Employers' Association.

MEASURES TO PROTECT WORKERS IN THE EVENT OF SUDDEN ENTERPRISE CLOSURE

Following the language of the national regulations, which emphasized the protection of workers' interests and rights as the primary goals of the 2008 new labor legislation, local guiding opinions and regulations have maintained similar vocabulary in their measures with respect to issues that directly affect workers' interests, namely, the establishment or termination of labor contracts, implementation or cancellation of arbitral awards, payment of compensation or other lawful expenses, and social insurance. However, many regulations recognize the fact that layoffs and terminations continue to increase as recessions in export destinations persist. As a result, if an enterprise closes due to bankruptcy or other reasons that are in accordance with the law, employers can cancel any labor contracts and labor relations with workers by sending an advanced notification to workers or paying the corresponding "substitute" fees, as suggested in the local regulations by Fujian province and Shanghai municipality.[35] The Fujian measures state that employees of state-owned companies should seek assistance through the workers' representative committee.[36] The Guangdong province guiding opinion jointly issued by the Guangdong High People's Court and the Guangdong Provincial Labor Arbitration Committee also encourages more communication and cooperation among arbitration committees and judges, especially in cases that involve the termination or cancellation of arbitrated judgments.[37]

Many local interpretations also address circumstances for workers whose employers have gone into hiding or disappeared, especially during labor dispute arbitration proceedings. In Jiangsu's most recent guiding opinion on how to handle labor disputes during the global economic crisis, announced in early 2009, for example, it is stipulated that enterprise properties and assets should be quickly frozen or sealed up in order to maintain control over the

properties of the hiding employers and to safeguard the workers' rights and interests.[38] However, the national-level Supreme People's Court Guiding Opinion released several months later expressed sympathy for "responsible" companies and advised that local governments should be cautious in quickly freezing or seizing the assets of delinquent companies.[39]

As the global economic crisis deepened and the number of labor disputes has continued to increase at an alarming rate, there has been greater emphasis on encouraging mutual cooperation and agreement between employers and workers. A key notion in 2009 regulatory development is that protection of both workers' rights and employers' lawful rights and interests is essential to maintain stable labor relations and to continue with industrial and economic development.[40] This language is a marked change from a year or two earlier when the central government spoke of industrial upgrading and leaving poor-quality jobs behind.[41] Currently, the emphasis is on the maintenance of employment levels.[42]

MEASURES TO DEVELOP EXTRAJUDICIAL DISPUTE RESOLUTION PROCEDURES

The 2008 PRC Law on Mediation and Arbitration of Labor Disputes underlined the need to first exhaust all consultation, negotiation, and mediation avenues to resolve labor disputes. The legislation suggested that arbitration and litigation should be used only when the other alternatives failed.[43] It also indicated the importance of the tripartite system of coordination between labor bureaus, trade unions, and enterprise representatives to solve labor dispute cases together.[44] Earlier local interpretations echoed and encouraged the use of this structure,[45] and in some instances, they also suggested major collaboration and involvement from local governments and other relevant departments and organizations.[46]

However, with the explosion of labor conflict cases in arbitration committees and courts, which suggests a growing preference on the part of workers to use formal legal channels over more informal negotiations with employers,[47] the central government has been trying to redirect these labor conflicts to other channels at lower local levels, and to encourage more mediation in general and negotiation within the enterprises.[48] Local governments are encouraged to strengthen and provide better guidance to improve the competence of labor dispute mediation organizations,[49] and there is emphasis on the communication and exchange of information between the relevant bodies.[50] Thus, the government is seeking interorganizational collaboration, where arbitration committees, courts, mediation committees, trade unions, and enterprises research and work together to resolve labor disputes.[51]

LOCAL MEASURES TO REGULATE LAYOFFS

In response to the current global financial crisis, on January 23, 2009, the Ministry of Human Resources and Social Security (MOHRSS), the All-China Federation of Trade Unions (ACFTU), and the China Enterprise Directors Association (CEDA) issued a joint guiding opinion on how to maintain stable labor relations and reduce the possibilities for potential labor conflicts and legal disputes. In this guiding opinion, employers are encouraged to avoid

or reduce mass layoffs and to adopt flexible alternatives, vocational training programs, especially for rural migrant workers, in order to improve workers' skills, flexible working hours, leave rotations, wage adjustments, and other cost-reducing measures.[52] Local governments such as Jiangsu province have issued their own measures reinforcing and complementing the actions suggested in the guiding opinion, including the reduction of social insurance premiums to save jobs.[53]

Under the guiding opinion, employers should lay off workers only when necessary due to "operational difficulties." They are advised to formulate a layoff plan in accordance with the law and regulations and to report in a timely manner to the local human resources and social security bureau.[54] This is intended to reinforce the requirements in the PRC Labor Contract Law to provide early notices to both the workers and the local labor departments,[55] and it also suggests more government involvement. The guiding opinion emphasizes the need to strengthen the government's guidance and supervision and the provision of guidance to the struggling enterprises.[56] However, there is increasing evidence that enterprises are avoiding these formal layoff procedures and using alternative measures to reduce employees, which do not require extensive consultation with the trade union or the workforce and also that do not require government notification.[57]

While employers are told to pay severance compensation and clear all wage arrears to avoid potential disputes,[58] both the MOHRSS Guiding Opinion and some local measures give enterprises the option to pay workers in stages rather than all at once after consulting and negotiating with the trade unions or workers directly.[59] Further, in the case of a delay in payments, employers are required to report the delay to the local human resources and social security bureau in advance and seek the consent of the trade union or the workers.[60] As a result, these measures, while strongly highlighting the tripartite system of coordination and cooperation among the government, the enterprise, and the trade union, also allow for direct negotiation between employers and workers in the event of layoffs.

Labor Disputes Trends

The Ministry of Human Resources and Social Security announced that labor disputes in 2008 had risen to 693,000, a near doubling of cases from a year earlier.[61] Reports on disputes in 2009 show that this rapid rate of increase is continuing and that the explosion of disputes is particularly apparent in coastal cities and provinces, including Beijing, Shanghai, Jiangsu, Zhejiang, and Guangdong.[62] The number of cases arbitrated in Shanghai increased 119 percent from 2007 to 2008, with some districts reporting increases of over 300 percent. Shanghai labor arbitrators' average annual caseload now exceeds 400 cases.[63] Taizhou city in Jiangsu province found that in the first quarter of 2009, nearly one-third of labor dispute cases involved layoffs or terminations of contracts, approximately a fourfold increase from the same period last year. A government report stated that these statistics indicate "a wave of dismissals" as companies search for ways to trim their workforces.[64]

There are several new trends in this large increase in disputes, including an increase in cases involving layoffs and severance compensation, social insurance, and wages; an increase in the complexity of the cases, making them more difficult to resolve; and finally, an increase in collective use of the courts by groups of workers. These issues, coupled with the large increase in the workload of arbitrators and judges, have lengthened the time it takes to resolve disputes.[65] In some cases, workers are waiting six months to a year to have their cases opened by the arbitration tribunal. A labor arbitrator in Guangzhou municipality stated that workers filing labor disputes in April 2009 would have their cases heard in March 2010.[66] In other cities, arbitrators are sending cases directly to the courts without hearing cases, due to their unmanageable workload.[67]

Local governments are also changing their procedural guidelines to adjust to the pressure of a rapidly rising caseload and dissatisfaction with long delays between case filings and hearings. In particular, local governments are pushing disputes down to lower levels for resolution, and encouraging, even coercing, the disputants to resolve disputes through negotiation or grassroots mediation, often led by low-level officials.[68] This emphasis on mediation and extrajudicial resolution is not limited to local governments, but is also reflected in national- and provincial-level regulations and circulars.[69] These procedural changes may make it more difficult to assess accurately the true number of disputes, as many disputes will not reach arbitration and litigation, which are the sources for the most commonly used statistics for labor conflict in China. There were also new reports that the rate at which workers win labor disputes is decreasing. A district in Ningbo city, Zhejiang province, reported a 210-percent increase in the loss rate for employees.[70]

Labor Disputes Trends—Continued

In addition to the large increases in arbitrated cases, Chinese courts continued to be deluged with labor disputes. In some cases, these disputes were the result of strong dissatisfaction with the arbitration proceedings, as most arbitrated cases can be reviewed in the courts if either side is dissatisfied.[71] In other cases, the increase reflected the strong and growing rights consciousness of Chinese workers as they claimed new protections offered in the legislation passed in 2008 during a time of increased layoffs and economic crisis. The Supreme People's Court reported a 93.9-percent increase in labor cases over the course of 2008. In 2009, this trend continued with nearly 170,000 cases in the first half of the year, an increase of 30 percent from the 2008 high.[72] The President of the Guangdong High People's Court reported that Guangdong courts received over 76,000 new labor cases in 2008, up 157 percent from the same period last year.[73] The people's court with jurisdiction over the Tangxia industrial zone in Dongguan city reported that by November 2008, each judge had received over 1,000 cases. More than half of the annual caseload is made up of labor disputes, most often migrant workers asking for workers' compensation, overtime pay, or severance compensation.[74] Courts in Jiangsu province reported similarly high increases. In Jiangyin city, labor cases at the court increased threefold. Court officials called for new measures to handle disputes earlier and to manage large, spontaneous protests that occur when factories suddenly close or initiate mass layoffs.[75]

Xinhua, the Chinese Government's state-run news agency, reported that, due to economic pressure on companies and local governments, 2009 would be a year with many mass protests and some local governments at risk of losing control over labor protests.[76] While strike and mass demonstration data are not released publicly, anecdotal evidence suggests that many localities in southeastern China experience large strikes on a daily basis. Jiangsu province reported that, in 2008, arbitrated labor disputes increased to 139,100, an increase of 79 percent over the year before. Collective disputes increased to 773, with over 30,900 people involved, increases of 49 percent and 104 percent, respectively. Jiangsu labor officials also intervened in 720 mass incidents, involving over 72,900 workers.[77] An official publication announced that labor protests jumped 94 percent in the first 10 months of 2008.[78]

Significant Labor Actions 2008–2009

Following the economic downturn that began in 2008, there continue to be widespread reports of strikes and demonstrations in China's manufacturing centers in southern China. These strikes are often motivated by factory slowdowns, closures, and non-payment of wages or overtime.[79] There is no evidence of encouragement or involvement by official trade unions. Instead, the trade union often appears during the period of negotiation and settlement of the strike as subordinate to the government.[80] An exception is the Wal-Mart strike discussed below.

- Strikes occurred at Jetpower, a subsidiary of Gold Peak Batteries, as workers in Shenzhen Special Economic Zone complained of toxic poisoning from cadmium during battery pro-

duction. Workers seeking compensation for occupational disease went on strike in April; earlier, workers had gone on strike in February over suspicions that the plant was relocating to another city. During negotiations between the company, workers, and government officials, the general manager of the plant was also the plant's union chairman.[81]

- In April 2009, 1,000 workers from a state-owned textile factory in Baoding city, Hebei province, organized a protest walk from Baoding to Beijing in order to draw attention to their dissatisfaction with plans for privatization. They eventually were stopped by officials, and brought back to Hebei by bus.[82]
- In April, a nationwide plan to scrap assistant manager positions at Wal-Mart stores in China was cancelled after managers protested the plan, including a public protest at Wal-Mart China headquarters in Shenzhen. Wal-Mart employees asked the Shenzhen branch of the All-China Federation of Trade Unions to intervene. Under the direction of the Shenzhen union, collective negotiations ensued, leading to the cancellation of the plan. Later in the year, however, Wal-Mart announced plans to lay off a large number of employees, including many of those affected by the earlier plan, by allowing short-term labor contracts to expire.[83]
- In July, steelworkers in northern China's Jilin province violently protested the planned merger of their state-owned company with a private company from Hebei province. The number of protesters remains unclear. The general manager of the Hebei company was beaten to death during the protests, which took place as company executives met to discuss the merger.[84] Smaller strikes, demonstrations, and individual disputes also have involved violence, against both workers and employers.[85]

Migrant Workers

Migrant workers in China are estimated to number over 140 million.[86] They are defined as rural residents who have left their place of residence to seek non-agricultural jobs in Chinese cities, sometimes in the same province and sometimes far from home. The Chinese household registration system (*hukou*) restricts easy migration between rural and urban areas in China. Therefore, migrant workers may work in a city for many years but are unable to qualify for city residency. Without city residency, they are denied many basic public benefits, such as inclusion into social insurance programs, education for their children, and healthcare. As a marginalized urban group, migrant workers are often abused or exploited by their employers who take advantage of their insecure social position and lower levels of education. While the central government has allowed the *hukou* system to relax over time, this system of institutionalized discrimination continues to affect adversely the social, civil, and political rights of migrants.[87]

Migrant Workers—Continued

At the workplace, migrants have borne the brunt of the global economic crisis as they are concentrated heavily in sectors adversely affected by recessions abroad, especially in labor-intensive manufacturing and construction. In February, the central government reported that 20 million migrant workers were now out of work.[88] While the National Statistical Bureau (NSB) reported that 70 million migrants returned to rural areas during the Chinese New Year holiday because of the lack of job opportunities (half the total number of migrants), post-Chinese New Year surveys indicate that 80 percent of those migrant workers returned to the coastal cities to find new employment during 2009.[89] In July, the mayor of the southern city of Dongguan stated that at least 10 percent of all migrant workers in the city had lost their jobs in the second half of 2008 and first half of 2009.[90]

Wage arrears and non-payment of wages are some of the most serious workplace problems that migrant workers face. Other serious problems include workplace injuries and the lack of reliable social insurance, especially for occupational injury and disease. During the global economic crisis, wage arrears problems increased dramatically as factories shut their doors.[91] The NSB reported that 5.8 percent of all migrant workers returning home for the holidays were owed back wages, but the percentage jumped to over 13 percent for migrants whose factories had shut down.[92] Local governments and trade unions often intervened in these cases, paying the workers subsidies if they agreed to end their protests.[93] Human Rights Watch issued a report drawing attention to how discriminatory aspects of the *hukou* system combined with a more restrictive labor market threatened already tenuous protections for migrant workers.[94]

The lack of social security for migrants and the long and arduous road through the legal system's labor dispute resolution proceedings are two severe problems. In 2009, there were several high-profile cases of migrant workers' injury and disease. In June, Liu Hanhuang, a migrant worker whose hand was amputated after a work injury, was pursuing a case through the appeals court when he reportedly murdered two Taiwanese managers at his former place of work.[95] Much of the media coverage and Internet discussion of the Liu Hanhuang case was sympathetic. One commentator argued that his crimes were the result of his frustration and anger about his case, which had dragged on for more than one year.[96]

Another migrant worker in Hebei province suffering from an occupational lung disease drew national attention for his pursuit of his legal rights for compensation.[97] The 28-year-old worker suffering from pneumoconiosis demanded that he be given an invasive surgical examination in order to prove his illness after the local unit authorized to certify occupational diseases issued a different diagnosis. When the exam verified that Zhang suffered from the fatal lung disease, the government criticized the hospital for doing an illegal examination. Like the Sun Zhigang case in 2003, when a migrant worker's death in police custody was followed by changes in the laws governing repatriation of migrant workers to their home areas, this case was followed by new calls for changes to China's system of worker protection and labor inspection.[98]

Migrant Workers—Continued

As the draft Social Insurance Law is debated and revised, many localities have expanded efforts to include migrants in social insurance coverage. However, there are still significant problems in terms of participation (for both employers and employees), coverage, and portability between rural and urban areas and even within urban areas. As many migrant workers returned to their hometowns during the Chinese New Year, there was an increase in the number of workers withdrawing their social insurance accounts from coastal cities. Migrant workers generally are able to withdraw monies only from their individual accounts, losing the larger percentage of their pensions that is paid by their employers. With migrant workers facing uncertainty about whether they would return to the same place to look for new work, and with the portability of pension accounts highly restricted, they chose to withdraw their pensions. A single district in Shenzhen Special Economic Zone reported that on a single day in March 2009 3,000 workers applied to withdraw pensions. In addition to complaints regarding long lines and bureaucratic delays in withdrawing pensions, some migrant workers complained of the basic unfairness of the system. Urban workers are able to draw on both individual and company accounts when they retire, while migrants are able to draw out only their individual accounts as they move from job to job.[99]

Official reports estimate that only about 17 percent of all migrant workers even participate in retirement insurance programs.[100] Increasing informalization of the workforce (see below) has led to declining social insurance protection for many migrant workers and low-level urban workers.

Freedom of Association

Workers in China do not enjoy the right to freedom of association. Trade union activity in China is organized under the All-China Federation of Trade Unions (ACFTU), a quasi-governmental organ that is under the direction of the Communist Party.[101] Leading trade union officials concurrently hold high-ranking positions in the Party. The ACFTU Constitution and the Trade Union Law of 1992 both highlight the dual nature of the ACFTU to protect the legal rights and interests of workers while supporting the leadership of the Party and the broader goals and interests of the Chinese Government.[102] The ACFTU monopolizes many worker rights issues in China, such as shopfloor organizing and "formalistic" collective contract negotiations, but it does not consistently or uniformly advance the rights of workers.[103]

In recent years, the central government has shown support for an enlarged trade union role in collective contracting, and in union organizing in private firms in China, including multinational companies.[104] These changes are less a sign of opening up and liberalization than they are a collection of strategies to improve the standing and legitimacy of the ACFTU in workers' eyes. The government's strategy appears to be based on its expectation that a more vibrant and engaged ACFTU may limit demands for independent union organization and spontaneous collective action by aggrieved workers.

At the shopfloor level, the ACFTU's unions remain weak and marginalized. While the ACFTU and its affiliated unions at lower administrative levels play important roles in legislation and regulation of workers' rights and employment laws, this bureaucratic role is not matched with power at the enterprise level. Generally speaking, firm level union branches are weak, non-democratic, and subordinate to management.[105] Despite an increase in legislation and administrative regulations that gives the ACFTU more power at the firm-level to resolve disputes, the structural weaknesses of the trade union branches make improvements in trade union autonomy and worker advocacy difficult and slow.[106]

In recent years preceding the economic crisis, the ACFTU initiated a number of programs and goals that enhanced its standing internationally and increased its visibility to marginalized workers, such as migrant workers and workers in small, private firms. The November 2008 Regulations on the Establishment and Development of Harmonious Labor Relations in the Shenzhen Special Economic Region more clearly defined the role of the ACFTU in Shenzhen to protect workers and to represent workers during stoppages or strikes. This is in contrast to national legislation, which instructs the union to represent workers and restart production as soon as possible. The 2008 PRC Labor Contract Law, the Shenzhen Regulations, and other local-level regulations also gave unions a larger role in enterprise decisionmaking, including the decision to initiate layoffs.[107] The trade union also vowed to continue high-profile union organizing in multinational firms.[108] At the local and regional levels, unions have become more proactive in organizing workers across different firms and negotiating minimum wage standards and labor contracts.[109] In early 2008, the Shenzhen Municipal Trade Union announced an ambitious plan to hire over 300 private lawyers to provide free legal aid to aggrieved workers. This plan was seen as a model for other unions across the country.[110]

The ACFTU has continued its campaign to set up unions in large multinational firms. With the impact of the global economic crisis and the increased fear of social instability related to rising unemployment, the trade union's role has been focused on assisting the government in resolving disputes and conflict. This is reflected in the renewed emphasis on mediation and lower level resolution of labor disputes in local regulations and measures. Reports on strikes and violent conflict between workers and the police do not mention the ACFTU as representing workers effectively, but depict it as either absent or on the side of the employer.[111] The Guangdong Provincial Trade Union announced in November 2008 that collective wage negotiations would cease temporarily in enterprises suffering economic difficulty.[112]

Collective Contracting

Collective contracts and some process of collective consultation and negotiation have been part of Chinese labor relations since the 1990s when state enterprise reform deepened and labor conflict began to increase rapidly, especially in the foreign and private sectors. The ACFTU has championed collective contracts and collective negotiations as important foundations for trade union work at the enterprise level. In recent years, the collective contract system has

received more Chinese Government and Communist Party support as part of an attempt to institutionalize a tripartite system of labor relations at the local level between the government, the ACFTU, and the employer associations.[113] Nonetheless, the collective contract and consultation system remains weak and formalistic because enterprise-level trade union leaders are not positioned to serve the interests of their workers. Many collective contracts merely reflect the basic legal standards in the locality and often are the result of concerted government or Party work to encourage the enterprise to enter into formalistic contracts rather than the result of true bargaining between management and the enterprise trade union.[114]

The All-China Federation of Trade Unions (ACFTU) has pushed the establishment of collective contract regimes in foreign-funded enterprises in particular. Wal-Mart stores in China began to draft collective contract provisions in 2008. Experts have criticized these agreements for being reached between ACFTU officials and Wal-Mart managers with little consultation with Wal-Mart employees.[115] However, as mentioned above, there have been instances in which Wal-Mart unions have attempted to protect workers against unilateral moves by management to trim the workforce. The trade unions in Shanghai municipality Wal-Mart stores completed a collective contract agreement in 2008 that went beyond basic legal protections and rights. This agreement set an 8-percent increase in workers' wages for the next two years and stipulated that workers with three years' tenure were entitled to non-fixed-term contracts.[116]

The 2008 Regulations on Harmonious Labor Relations in the Shenzhen Special Economic Zone are the most extensive local regulations regarding collective contracts and collective consultation. Chapter 3 of these regulations emphasizes the role local governments and trade unions play in collective consultation. The regulations encourage both employers and workers to use collective consultation in accordance with the law for the establishment and modification of labor contracts, adjustments in labor remunerations, improvement in labor conditions, and resolution of labor disputes.[117] The employing unit and the labor union or the workers' representatives (*laodongzhe daibiao*) should consult collectively on issues that include payments, health and safety, insurance benefits, and salary adjustments in collective contracts, on any changes in regulations that may affect workers' interests, on the prevention and resolution of labor disputes, and other issues that require consultation between the involved parties.[118] The city and regional government labor departments, as well as trade unions at every level, should provide guidance and help in coordinating collective consultation.[119]

The regulations also provide for representation by external professionals.[120] The number of these representatives should not exceed one-third of the number of the original representatives.[121] Regional (*qucheng*) or enterprise trade unions can also represent workers in collective consultation and/or the establishment of collective contracts.[122] These measures may allow for collective negotiations to become more professionalized and legalistic. They may also make it more possible for collective negotiations to occur in factories without an ACFTU presence.

For salary adjustments, the Shenzhen Regulations instruct that the employing units and the trade union or the workers' representatives should organize collective consultation—a process that should occur at least once a year.[123] In addition, the regulations highlight the necessity to establish city and regional coordination committees for labor relations (*shi qu laodong guanxi xietiao weiyuanhui*).[124] They should be composed of representatives of various local governments' departments as well as organizations that include the participation of enterprise representatives and trade unions,[125] and conferences should be organized to discuss questions related to labor relations and labor disputes, to provide opinions and suggestions on changes in laws and regulations that affect workers' interests, as well as on how to handle labor disputes, and to provide research on how to conduct collective consultation and establish collective contracts, or any other related issues in accordance with the law and regulations.[126]

The ACFTU has also pushed for the extension of collective consultation to include regular negotiation between industrial trade unions and small and medium employers. In July, the ACFTU released a Guiding Opinion on Actively Launching Work on Industry-Level Collective Wage Consultation.[127] According to the deputy chair of the ACFTU, this work by the trade union is to increase workers' bargaining power in industries where large numbers of workers are employed by small and medium enterprises producing similar products in one locale.[128] This is a strategy to enhance and promote the ACFTU among workers who often are not unionized and in the past have been neglected by ACFTU campaigns.

None of the ACFTU activity has changed the basic fact that freedom of association does not exist in China. Rather, the ACFTU activity and continued higher profile in recent years is a proactive attempt by the government to stave off the formation of independent unions. However, with the onset of the global economic crisis and increased concern for social instability, the ACFTU appears to have taken a more passive and subordinate role with respect to the Communist Party and government.

Non-Governmental Organizations (NGOS)

The 2009 crackdown on legal activists and non-governmental organizations (NGOs) representing disadvantaged groups in public interest lawsuits is also adversely affecting the advancement of workers rights in China. The July detention of Xu Zhiyong, the closure of the Gongmeng Law Research Center,[129] and the harassment of other NGOs that strive to protect civil rights in China impede recent advancements regarding migrant workers' rights and employment discrimination. [See Section III—Civil Society.]

Working Conditions

There is increasing evidence of deteriorating working conditions for many Chinese workers and increasing bifurcation of the workforce as highly skilled workers still are in high demand while lower level workers bear the brunt of the global economic downturn. The trend of informalization also hurts the lower rungs of the labor market more severely as employers seek to retain highly sought

technical workers and managers while reducing the size of the less-skilled labor force.[130] Generally speaking, recent wage and benefits increases are slowing down or disappearing altogether. The government's emphasis on reducing layoffs and encouraging wage reductions, holidays, and other stopgap measures may also be leading to worsening compensation, though it may reduce overall unemployment.

WAGES

The 1994 PRC Labor Law guarantees minimum wages for workers and assigns local governments to set wage standards for each region.[131] The new PRC Labor Contract Law improves formal monitoring requirements to verify that workers receive minimum wages. Article 74 requires local labor bureaus to monitor labor practices to ensure rates adhere to minimum wage standards. Article 85 imposes legal liability on employers who pay rates below minimum wage. In addition, Article 72 guarantees minimum hourly wages for part-time workers.[132]

Illegal labor practices have undermined minimum wage guarantees. Wage arrears remain a serious problem, especially for migrant workers. Subcontracting practices within industry exacerbate the problem of wage arrearages. When investors and developers default on their payments to construction companies, workers at the end of the chain of labor subcontractors lack the means to recover wages from the original defaulters. Subcontractors, including companies that operate illegally, neglect their own duties to pay laborers and leave workers without any direct avenue to demand their salaries. In 2007, the Commission reported a steady increase in the number of workers who turned to labor arbitration to settle their disputes with employers.[133] As detailed below, this trend appears to have continued.[134]

WORKING HOURS

The PRC Labor Law mandates a maximum 8-hour workday and 44-hour average workweek.[135] As mentioned in the Commission's 2008 Annual Report, forced overtime and workdays much longer than the legally mandated maximum are not uncommon, especially in export sectors, where some employers avoid paying overtime rates by compensating workers on a piece-rate basis with quotas high enough to avoid requirements to pay overtime wages.[136] It has been reported that suppliers in China avoid exposing themselves to claims of requiring illegal, long hours by hiring firms that help them set up double booking systems for foreign importers who aim to adhere to Chinese rules and regulations. Such firms not only help suppliers prepare books to pass audits, but also coach managers and employees on how to respond to auditors' questions.[137]

In 2009, disputes over working hours abuses continued to be a major reason for labor disputes, especially disputes involving overtime or wage arrears related to past abuses and to struggling enterprises avoiding legal responsibilities to cut costs.[138] The PRC Labor Dispute Mediation and Arbitration Law lengthened the time allowed to file a dispute and also put more evidentiary responsibility on the employer to demonstrate that overtime abuses had not occurred, which also resulted in an increase in the number of work-

ers seeking compensation.[139] Many workplaces reduced hours and salaries in the wake of the global economic crisis, which led to workers' complaints of violations of the minimum wage.[140]

The economic crisis and increasing informalization of the less-skilled workforce also led to greater bifurcation between highly skilled workers and managers and low-level or production-level workers. In order to retain scarce skilled workers, companies continued to raise wages and benefits for such staff, while cutting those of lower-level workers who can be more easily replaced when the economy recovers.[141]

INFORMALIZATION

Since the mid-1990s, when China's economic reforms quickened, there has been a "rapid and unprecedented rise" in informal employment.[142] Informal employment is defined as employment that is not stable or secure, that lacks a written agreement or contract, and that does not provide social insurance or benefits.[143] Economists estimate that 45 percent of urban employment in China is now informal. Of workers in the state or collective sectors, 22 percent are employed informally, while the percentage rises to 84 percent for workers in the private sector. "Informal employment is the rule rather than the exception," according to experts reporting on findings from the field.[144] Informal employment is also more likely for women, the very young and the very old, and among less educated workers.[145]

The 2008 Labor Contract Law included provisions to reduce informal employment and to encourage the signing of labor contracts, particularly longer term or open-term contracts. A National People's Congress (NPC) implementation report states that there has been considerable success in the expansion of the labor contract system. The NPC also reported that contract length had become longer. In Jiangsu province, 49.09 percent of all contracts were between one and three years, while contracts less than one year were only 14.42 percent. Open-term contracts had increased by 1.19 percent.[146] However, it is likely that these figures overstate the number of Chinese workers with more security and stable employment since the passing of the PRC Labor Contract Law. There is evidence that the high rates of "labor contract signing" are leaving out a large number of workers who now are employed in an informal and unstable manner, receiving pay by the day, hour, or piece rate with no formal agreement or relationship.[147]

There are also reports of increased use of temporary workers to avoid the burdens of formal employment, replacement of older workers with younger workers to avoid longer term contracts, and the use of contract expiration as a principal method of laying off formal employees during the economic slowdown.[148] Formal employment in China continues to erode, especially for unskilled urban workers and rural migrants.

Child Labor

In spite of legal measures to prohibit the practice of child labor in China, child labor remains a persistent problem.[149] As a member of the International Labour Organization (ILO), China has ratified

the two core conventions on the elimination of child labor.[150] The PRC Labor Law and related legislation prohibit the employment of minors under 16,[151] and both national and local legal provisions prohibiting child labor stipulate a series of fines for employing children.[152] Under the PRC Criminal Law, employers and supervisors face prison sentences of up to seven years for forcing children to work under conditions of extreme danger.[153] Systemic problems in enforcement, however, have dulled the effects of these legal measures. The overall extent of child labor in China is unclear in part because the government classifies data on the matter as "highly secret." [154]

As reported by the Commission in 2008, child laborers reportedly work in low-skill service sectors as well as in small workshops and businesses, including textile, toy, and shoe manufacturing enterprises.[155] Many underage laborers reportedly are in their teens, typically ranging from 13 to 15 years old, a phenomenon exacerbated by problems in the education system and shortages of adult workers.[156] Children in detention facilities also have been subjected to forced labor.[157] Reports of child labor continued in 2009 with a high-profile case surfacing at a factory in Guangdong province that implicated foreign buyers. A migrant worker, Liu Pan, was crushed to death in a factory producing paper goods for the Walt Disney Company. It was discovered after his death that Liu was only 15 when he was hired at the factory.[158] China Labor Watch also reported that the factory's use of child laborers was widespread.[159] Media also reported on the presence of underage workers in government-sponsored labor transfer programs that transferred workers from the Xinjiang Uyghur Autonomous Region to jobs in the interior of China [see Section IV—Xinjiang].

As reported in the Commission's 2008 Annual Report, the Chinese Government, which has condemned the use of child labor and pledged to take stronger measures to combat it,[160] permits "work-study" programs and activities that in practical terms perpetuate the practice of child labor, and are tantamount to official endorsement of it.[161] Under work-study programs implemented in various parts of China, children who are elementary school students pick crops and engage in other physical labor.[162] [See Section IV—Xinjiang for more information on work-study programs in the Xinjiang Uyghur Autonomous Region.]

Central government legislation allows this form of child labor. National provisions prohibiting child labor provide that "education practice labor" and vocational skills training labor organized by schools and other educational and vocational institutes do not constitute the use of child labor when such activities do not adversely affect the safety and health of the students.[163] The PRC Education Law supports schools that establish work-study and other programs, provided that the programs do not negatively affect normal studies.[164] A nationwide regulation on work-study programs for elementary and secondary school students outlines the general terms of such programs, which it says are meant to cultivate morals, contribute to production outputs, and generate resources for improving schools.[165] These provisions contravene China's obligations as a member state to ILO conventions prohibiting child labor.[166] In 2006, the ILO's Committee of Experts on the Applications of Con-

ventions and Recommendations "expresse[d] . . . concern at the situation of children under 18 years performing forced labor not only in the framework of re-educational and reformative measures, but also in regular work programs at school." [167]

Forced Labor

In May 2009, another forced labor case was exposed at brick kilns in Anhui province. This case follows several high-profile scandals at brick kilns in 2007 and 2008, involving forced labor and child labor. In this case, brick kilns had employed mentally handicapped workers and employed them in "slave-like" conditions. The official media reported that investigations were continuing in possible trafficking of mentally impaired people in China as these workers came from a number of different provinces and the brick kiln owner reported that he "bought" the workers from a taxi driver in a nearby province.[168]

As reported in the Commission's 2008 Annual Report, Article 244 of the PRC Criminal Law makes forced labor a crime. Events during this reporting year showed the deterrent value of this provision to be inadequate at best under current conditions.[169] Current law applies only to legally recognized employers and does not apply to individuals or illegal workplaces. As the Commission noted in its last Annual Report, the All China Lawyers Association in June 2007 asked the National People's Congress Standing Committee to introduce new legislation making slavery a criminal charge.[170] It is unclear at the time of this writing whether such legislation is in process. However, in March 2008, members of the Chinese People's Political Consultative Conference (CPPCC) recommended to the CPPCC (which is not a lawmaking body) that the Criminal Law be amended to criminalize "violently forcing labor." [171]

China's International Commitments to Worker Rights

As a member of the International Labour Organization (ILO), China is obligated to respect a basic set of internationally recognized labor rights for workers, including freedom of association and the "effective recognition" of the right to collective bargaining.[172] China is also a permanent member of the ILO's governing body.[173] The ILO's Declaration on the Fundamental Principles and Rights at Work (1998 Declaration) commits ILO members "to respect, to promote and to realize" these fundamental rights based on "the very fact of [ILO] membership." [174]

China's International Commitments to Worker Rights—Cont.

The ILO's eight core conventions articulate the scope of worker rights and principles enumerated in the 1998 Declaration. Each member is committed to respect the fundamental right or principle addressed in each core convention, even if that member state has not ratified the convention. China has ratified four of the eight ILO core conventions, including two core conventions on the abolition of child labor (No. 138 and No. 182) and two on non-discrimination in employment and occupation (No. 100 and No. 111).[175] The ILO has reported that the Chinese Government is preparing to ratify the two core conventions on forced labor (No. 29 and No. 105).[176] On its face, Chinese labor law appears to incorporate some of the basic obligations of the ILO's eight core conventions, but in practice many of these obligations remain unfulfilled.[177] Importantly, Chinese labor law does not incorporate basic obligations of the ILO's provisions relating to the freedom of association and the right to collective bargaining.

The Chinese Government is a state party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), which guarantees the right of workers to strike, the right of workers to organize independent unions, the right of trade unions to function freely, the right of trade unions to establish national federations or confederations, and the right of the latter to form or join international trade union organizations.[178] In ratifying the ICESCR, the Chinese Government made a reservation to Article 8(1)(a), which guarantees workers the right to form free trade unions. The government asserts that application of the article should be consistent with Chinese law, which does not allow for the creation of independent trade unions.[179]

U.S.-China Bilateral Cooperation

The U.S. Department of Labor (USDOL) participated in the economic track of the first meeting of the United States-China Strategic and Economic Dialogue in July 2009. Discussions at the economic track focused on ways to promote a sustainable global recovery and to ensure that future growth results in a more balanced global economy and stronger financial systems. USDOL and China's Ministry of Human Resources and Social Security agreed to further bilateral cooperation on labor issues, including undertaking a dialogue between the two agencies.

CRIMINAL JUSTICE

Introduction

During the Commission's 2009 reporting year, as in 2008, the dual priorities of maintaining "social stability" and preserving the Communist Party's hold on power have played a significant role in the operation of the criminal justice system and the use of police power.[1] Even before the global financial crisis, the Chinese leadership was concerned about challenges to "social stability" during 2009 because of several significant anniversaries, such as the 20th anniversary of the 1989 Tiananmen protests and the 60th anniversary of the founding of the People's Republic of China, that would fall during the year.[2] Anniversaries in China are potentially destabilizing events because they can act as a trigger for citizens' protests against current policies and conditions.[3] The attention Chinese leaders are placing on "social stability" is not surprising; the number of group protests, petitions, and riots reportedly is on the rise, and clashes between citizens and police appeared to intensify during this reporting year.[4]

The problem of unchecked police power and arbitrary detention of Chinese citizens showed no sign of abating during 2009. For example, the Commission noted numerous reports of petitioners being held in extralegal secret "black jails" (*hei jianyu*) (both in Beijing and elsewhere) during the annual March meeting of the National People's Congress and the Chinese People's Political Consultative Conference.[5] Extralegal detention and harassment of activists continued during this reporting year and intensified during the run-up to the 20th anniversary of the violent suppression of the 1989 Tiananmen protests on June 3 and 4.[6]

Fair trial rights received significant attention among China's online community and the media during the past year in the context of two criminal cases that were plagued by irregularities and suspicious official conduct.[7] Yang Jia was executed in November 2008 after being convicted of killing six public security officers in Shanghai, apparently in retaliation for earlier police mistreatment, and Deng Yujiao, a young female worker in Badong county, Hubei province was exempted from punishment after she killed a local official and injured another in self-defense to stave off an alleged attempted rape.[8] That members of China's online community and activists sympathized with Yang Jia highlights the fraught nature of relations between the Chinese public security apparatus and the citizenry, and perhaps an increasing focus among citizens on the importance of procedural fairness and justice.[9] The support among Chinese citizens for Deng Yujiao stemmed in part from the anger and resentment many citizens apparently feel toward corrupt local officials and the police.[10]

There were several potentially positive developments during this reporting year with respect to criminal justice. The first-ever National Human Rights Action Plan, which the government released in April, contains policy commitments, which, if implemented effectively, could lead to improvements in fair trial rights and detainee rights. Also in April, the Supreme People's Procuratorate launched a five-month campaign to ensure "proper management" of detention centers in the aftermath of a spate of unnatural deaths of de-

tainees at Ministry of Public Security-run detention centers during the first few months of 2009.[11] In August, the Supreme People's Procuratorate announced that confessions obtained through torture would no longer be admissible as evidence in death penalty cases.[12] The revised PRC Lawyers Law, which has been in effect for over a year, reportedly has led to some improved access by lawyers to their detained clients in certain jurisdictions; however, serious implementation challenges remain.[13] In June, the municipality of Beijing announced that by the end of 2009 it would cease executing prisoners by gunshot, but instead would use lethal injections.[14] The Supreme People's Court indicated that eventually all executions nationwide will be carried out by lethal injection.[15]

Abuse of Police Power

SUPPRESSION OF DISSIDENTS AND CITIZENS WHO SEEK JUSTICE RELATED TO "SENSITIVE ISSUES"

Public security (*gongan*) officers and officers in the domestic security protection (*guobao*) unit of public security bureaus continued to engage in extralegal tactics such as harassment, assault, kidnappings, and illegal detention in order to punish Chinese citizens who expressed dissent or sought to defend their rights and the rights of others.[16] Such arbitrary restrictions on personal liberty, freedom of expression, and freedom of peaceful assembly and association contravene the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), as well as China's own laws.[17]

Parents seeking justice for their children who died in the May 2008 Sichuan earthquake and those who were injured or killed from drinking melamine-tainted milk were subjected to illegal treatment at the hands of the police or their agents.[18] Authorities warned parent protesters in Sichuan province "of dire consequences if they continued to 'make a fuss.'" [19] Several parents who eluded the police and made it to Beijing to petition reported that after they returned to Sichuan, "the threats from local officials increased and the parents were told it was illegal for them to meet or talk to foreign journalists." [20] Beijing-based Zhao Lianhai, an organizer of parents whose children were injured or killed by melamine-tainted milk, had been questioned by public security officers more than 20 times between September 2008 and March 2009.[21]

Several lawyers who took on "sensitive" cases or got involved in "sensitive" issues during the past year were abducted or beaten by public security officers and/or individuals working under the direction or with the knowledge of the public security bureau.[22] [See Section III—Access to Justice—Harassment and Abuse of Human Rights Lawyers.] Shanghai-based rights defense lawyer Zheng Enchong has been subjected to constant surveillance and harassment since his release from prison in June 2006.[23] Zheng was summoned by police for questioning 10 times during April 2009 alone.[24] Human rights lawyer Gao Zhisheng was last seen being taken away by police and hired "thugs" in February of this year. As of mid-September, his whereabouts remain unknown.[25]

Within one month of the issuance in December 2008 of Charter 08, a document calling for political reform and greater protection

of human rights in China, the non-governmental organization Chinese Human Rights Defenders reported that more than 100 signatories throughout China had been summoned for questioning by the police.[26] At the same time as signers of the Charter were being pressured by public security officers to renounce their support for the Charter, other officers were searching the individuals' homes, often confiscating computers, manuscripts, and even bank account books.[27] After prominent intellectual and rights defender Zhang Zuhua—one of the main drafters of the Charter—was taken into police custody on December 8, his home was searched and many items were confiscated, including computers, cash, credit cards, and bank deposit books.[28] Zhang's bank accounts were promptly emptied.[29] In late March 2009, domestic security protection (*guobao*) officers warned Jiang Qisheng, a Beijing-based writer, activist, and signatory of Charter 08, not to engage in any activities commemorating the 20th anniversary of the 1989 Tiananmen protests. Officers searched his home and took three computers, several bank deposit books, and many manuscripts and books.[30] [See Section II—Freedom of Expression, for a discussion of Charter signatory Liu Xiaobo's detention and arrest.]

The abuse of police power to summon citizens for questioning, search their homes, and arbitrarily confiscate their personal property sparked an unprecedented open joint statement from eight human rights groups in mainland China and Hong Kong Special Administrative Region in April 2009.[31] The declaration criticizes the Chinese Government's frequent use of "police force to summon Chinese citizens, search their residences, seize their computers, bank deposit books, paper notebooks, drafts of their writings, etc."[32] The groups condemned such "illegal exercise of police power" and violations of Chinese citizens' right to personal liberty and property, and other fundamental human rights.[33]

Authorities also unlawfully subjected family members of dissidents, rights defenders, and activists to strict surveillance and control during the Commission's 2009 reporting year. Officials use harassment (or the threat of harassment) of family members of activists for at least three purposes: (1) to punish and instill fear in activists by causing their families to suffer, (2) to create leverage for the government in its efforts to pressure activists to stop whatever conduct they are engaged in that the government does not like (i.e., "stop doing X, and we'll stop harassing your family"), and (3) in the case of detained activists, to obstruct attempts by family members to bring public attention to the activist's plight.[34] For example, on December 26, 2008, police summoned Charter 08 drafter Zhang Zuhua for a second time regarding the Charter and threatened him that "severe consequences" to his family would follow if he continued promoting Charter 08 and giving interviews to the media.[35] Liu Xiaobo's wife, Liu Xia, has been followed constantly and monitored by public security officers since Liu Xiaobo was taken away on December 8, 2008.[36]

Yuan Weijing, wife of imprisoned legal advocate and rights defender Chen Guangcheng, continues to be placed under "soft detention" (*ruanjin*).[37] As many as 26 guards, who reportedly work in two shifts, keep her confined to her home and prevent visitors from entering.[38] Zeng Jinyan, a blogger, rights activist, and the wife of

imprisoned human rights activist Hu Jia, is under strict surveillance by domestic security protection (*guobao*) officers. In February, when U.S. Secretary of State Hillary Rodham Clinton visited Beijing, at least six *guobao* officers prevented Zeng from leaving her apartment, citing "an order from the top." [39] After fleeing China to the United States, Geng He, wife of disappeared attorney Gao Zhisheng, cited the Chinese authorities' harassment and abuse of her children as the primary reason for their defection.[40]

Local law enforcement officials outside of Beijing often abuse their power in order to silence aggrieved citizens who may seek to go to the provincial capital and/or Beijing to petition.[41] For example, in Sichuan province, public security officers illegally detained some of the parents who sought justice for their children killed during the May 2008 Sichuan earthquake in order to prevent them from petitioning or advocating for an investigation.[42] And a 58-year-old petitioner from Jilin province, Du Mingrong, told the Guardian, a British daily newspaper, in May that he was locked up by local officials for two years and was never told why. "I was just petitioning to get back some money that the police had stolen from me. . . . I was beaten and tortured by officials in Baishan in Jilin. I came to Beijing to protest." [43]

GOVERNMENT'S USE OF HIRED "THUGS" FOR INTIMIDATION AND ABUSE

A "disguised" form of police abuse continued during 2009: the use of hired, unofficial personnel (often referred to as "thugs" in media and human rights reports) to beat, abduct, and torture dissidents, activists, petitioners, and other "troublemakers," with the knowledge of the police or government officials.[44] In December 2008, the UN Committee against Torture (UNCAT) concluded that the Chinese Government's use of "unaccountable 'thugs' who use physical violence against specific [human rights] defenders but enjoy de facto immunity" was one of three "over-arching problems" that undermine effective implementation of the Convention against Torture.[45] The UNCAT specifically noted reports that Gao Zhisheng and other human rights lawyers were harassed by "unaccountable personnel alleged to be hired by State authorities." [46] Gao was last seen on February 4, 2009, being dragged out of bed from his relatives' home in Shaanxi by more than 10 police and "hired thugs." [47] In the fall of 2008, Xu Zhiyong, a law professor and cofounder of the Open Constitution Initiative (OCI) began to organize citizen rescue teams to free petitioners from black jails in Beijing. Government-hired "thugs" at Beijing's Youth Hotel (which operates as a black jail) beat up Xu early on in his rescue efforts.[48] Xu Zhiyong was told by a petitioner inside the black jail that the local government of Kaifeng municipality (in Henan province) had hired gangsters as "guards." The hired "guards" reportedly received 1,000 yuan (US$146) for a light beating and 3,000 yuan (US$439) for a heavy beating.[49] [See Section III—Civil Society, for a discussion of the government's shutdown of OCI and the detention and subsequent release of Xu Zhiyong.]

CLASHES BETWEEN LAW ENFORCEMENT PERSONNEL AND CHINESE CITIZENS

Relations between China's law enforcement agencies and Chinese citizens appear to be on a steady decline. In April, Hong Kong-based analyst Willy Lam observed that police incompetence and corruption were responsible for "quite a number of relatively minor incidents . . . develop[ing] into law-and-order disasters."[50] According to the Open Constitution Initiative, which ranked the Yang Jia police-murder case as the most important law-related event of 2008, the fact that Yang Jia, "was regarded as a hero by ordinary citizens . . . indicated the unusual tension between the police force and the general public. The public has lost faith in police."[51] In March, a land dispute in Yingde county, Guangdong province resulted in violent clashes between police and farmers, resulting in many injuries.[52] One injured villager told the Washington Post that he was now "terrified" of the police: "I feel that Chinese cops can kill people like ants with impunity."[53] In mid-August, human rights defenders in Beijing and Shanghai launched an online petition protesting police violence.[54]

The number of "mass incidents" (*quntixing shijian*), an imprecise term that includes mass petitions, violent riots, and unauthorized peaceful demonstrations and assemblies, appears to be on the rise.[55] Chinese authorities reported 74,000 "mass incidents" in 2004,[56] and in February 2009, the Hong Kong magazine Cheng Ming reported that an internal report circulated by the Central Committee for Comprehensive Management of Public Security stated that during 2008 there were more than 127,000 "mass protests" (*qunti kangzheng shijian*) throughout China in which more than 12.1 million people participated.[57] The growing number of such incidents and protests and the apparent inability of the Party, government, and security forces to prevent them in the first instance, and appropriately handle them once they occur, is one of the most serious problems facing China's leadership.[58] The number of attacks on police stations and police vehicles, and even on police officers themselves, reportedly has increased as well.[59]

Evidence of the fraught state of police-citizen relations was apparent in several high-profile incidents that occurred during the past year. On June 17, a mass incident erupted in Shishou city, Hubei province, following the suspicious death of a 24-year-old cook, Tu Yuangao, who was employed at a hotel that reportedly had close ties to the local government.[60] Rumors circulated that Tu was killed because he had threatened to expose the hotel's involvement in the local drug trade.[61] The police, however, promptly declared Tu's fall from the third floor to be a suicide.[62] Protesters burned the hotel and overturned police cars in what became a full-blown riot that pitted tens of thousands of citizens against riot police for several days.[63] In an unusual move, a local Shishou official named Li Guolin, blogged about the events and criticized the government's characterization of the riot as an isolated incident.[64] Li wrote, "[T]he unrest was precipitated by long established tensions in Shishou society. . . . Such tensions are what the media calls 'hatred toward the rich, the officials and the police' that spread widely among the society."[65] Another clash that revealed tensions be-

tween citizens and police occurred in late May in Huining county, Gansu province. Nearly 1,000 citizens protested the alleged beating of a student by traffic police personnel after the student failed to stop at a red light while riding his bicycle.[66] A police car was overturned before 100 additional police showed up on the scene. Local citizens were reported as saying that the clash reflected long-simmering resentment of the rough tactics used by local police.[67]

The tense relationship between China's public security apparatus and the citizenry was highlighted in the case of Yang Jia, a 28-year-old man who was convicted of killing six police officers in Shanghai in July 2008 and then executed for the crime in late November.[68] The police killings were apparently in retaliation for an earlier incident of police abuse.[69] Artist and blogger Ai Weiwei, who followed Yang Jia's case closely, believed that Yang Jia killed the police officers as a "protest against the system."[70] Ai Weiwei noted that sympathy for Yang Jia grew as procedural irregularities in the Shanghai authorities' handling of the case spread across the Internet.[71] In an online poll conducted by Southern Weekend, Internet users ranked Yang Jia's case as the most important event of 2008.[72]

Another form of state brutality that received substantial attention during this reporting year was the violence perpetrated by urban management (or administration) officers, or *chengguan.*[73] The responsibilities of urban management officers include checking permits, shutting down unlicensed street vendor stalls, and generally assisting in maintaining "stability" in the cities, but in order to maintain "stability," *chengguan* often resort to violence.[74] The reputation of urban management officers for brutality among Chinese citizens is so widespread that the word *"chengguan"* is used as a synonym in colloquial speech for "violence."[75] In April, excerpts from an official training handbook for Beijing's urban management officers that included instructions on how to beat targets without drawing blood on the face or leaving marks on the body was posted online, sparking outrage in the media and blogosphere.[76] In May, thousands of university students from the Nanjing University of Aeronautics and Astronautics in Nanjing city, Jiangsu province, reportedly took to the streets after five students were beaten by *chengguan* officers as they were trying to set up vendor stands on the sidewalk.[77] The unrest reportedly reflected simmering anger among students regarding the harsh tactics used by the *chengguan.*[78] Over the past several years, academics and others have called for the abolition of the urban management system and have raised questions about the legal basis of the system.[79] In July, the State Council's Legislative Affairs Office issued for public comment draft measures that would legalize the business activities of street vendors and peddlers.[80] A Caijing report on the draft measures noted that conflicts between *chengguan* and peddlers had increased and were becoming more violent.[81]

Arbitrary Detention

The UN Working Group on Arbitrary Detention (UNWGAD) defines the deprivation of personal liberty to be "arbitrary" if it meets one of the following criteria: (1) there is clearly no legal basis for the deprivation of liberty; (2) an individual is deprived of his liberty

for having exercised rights guaranteed under the Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights (ICCPR); or (3) there is grave non-compliance with fair trial standards set forth in the UDHR and other international human rights instruments.[82] Many forms of arbitrary detention also violate China's own laws.[83] Arbitrary detention in China includes various forms of extralegal detention, such as detention in secret black jails (*hei jianyu*), "soft detention" (*ruanjin*)—a form of unlawful home confinement—and the arbitrary confinement of individuals in psychiatric hospitals for non-medical reasons. Another form of extralegal detention—*shuanggui* ("double regulation" or "double designation")—is used by the Party for investigation of Party members, most often officials in cases of suspected corruption. Arbitrary detention also includes various kinds of extrajudicial administrative detention, such as reeducation through labor. Finally, the detention of those who have been deprived of their liberty for exercising rights guaranteed under the UDHR and ICCPR is arbitrary.[84] [See Section II—Freedom of Expression, Freedom of Religion, and other sections for information on specific cases.]

EXTRALEGAL DETENTION AND DISAPPEARANCES

The use of extralegal detention, discussed in previous Commission reports, continued unabated during this reporting year. As in 2008, Chinese authorities subjected citizens to at least three forms of extralegal detention: (1) arbitrary home confinement or "soft detention" (*ruanjin*) and control,[85] (2) detention in black jails and other secret detention sites, which the UN Committee against Torture has deemed "per se disappearance," [86] and (3) *shuanggui*.[87]

Arbitrary "soft detention" and control

As discussed in last year's Annual Report, and earlier in this section, the unlawful "soft detention" (*ruanjin*) or "home confinement" that numerous dissidents, activists, and their family members are subjected to has no basis in Chinese law and constitutes arbitrary detention under international human rights standards.[88] Perhaps the most famous case of unlawful home confinement was former Premier Zhao Ziyang's 16-year-long period of "soft detention," which ended with his death in 2005. Zhao's thoughts on his confinement have come to light this year with the release of his memoir, "Prisoner of the State: The Secret Journal of Zhao Ziyang." Based on tapes he secretly recorded around 2000, the memoir contains a letter Zhao wrote to President Jiang Zemin in 1997 regarding his illegal home confinement. Zhao states:

> Since June 1989, I have been illegally subjected to either house arrest or semi-house arrest. This has gone on for eight and a half years already. . . . I do not even know what specific laws I have violated, nor do I know which state law enforcement agency and what procedure of law have been used to authorize my house arrest. How can subjecting a person to this kind of undeclared house arrest and depriving his rights as a citizen not constitute a crude trampling of the socialist legal system? [89]

The abuse of police power to unlawfully restrict the personal liberty of dissidents, activists, writers, and others during the period surrounding the 20th anniversary of the violent suppression of the 1989 Tiananmen protests was so severe that 81 individuals who signed Charter 08 launched the Anti-Soft Detention Anti-Surveillance United Movement.[90] Their statement, issued on June 10, observes that every year, in the lead-up to June 4 and other politically sensitive dates, public security bureaus across China mobilize a massive amount of police power for the purpose of subjecting dissidents and rights defense activists to *ruanjin* and surveillance.[91] The group accuses the Communist Party of wide-scale violations of human rights, particularly citizens' right to personal liberty.[92]

Secret detention facilities and disappearances

According to the UN Committee against Torture, detention of individuals in secret detention facilities "constitutes per se disappearance."[93] Secret detention sites in China include black jails (often housed in privately-run small hotels, guesthouses, and government buildings), government facilities used for forced detention for "legal education" and "study classes," and psychiatric hospitals used to hold petitioners and others for non-medical reasons.

Black jails have no legal basis.[94] Although the Chinese Government has denied the existence of black jails on several occasions, including during the February 2009 session of the UN Human Rights Council's Universal Periodic Review of its human rights record,[95] the existence of black jails of various forms throughout China is well-documented.[96] Black jails arose as a substitute for the dismantled "custody and repatriation" (*shourong qiansong*) centers that had been used to detain petitioners and undocumented migrants, up until they were abolished in 2003.[97] Law professor and human rights defender Xu Zhiyong defines "black jails" as:

> places used by provincial governments to illegally imprison petitioners; we call them black jails because, first, they are just like prisons—established by the government to restrict people's freedom—and, second, they are "black" because they have no basis in any laws or regulations and are totally illegal.[98]

Xu believes that the government's use of black jails is "in a sense . . . the biggest human rights issue because it involves so many people, it's so widespread, and it's so lacking in legal justification."[99] Chinese Human Rights Defenders and others have documented that the extralegal detention and repatriation of petitioners is good business for the public security apparatus in Beijing, small hotels that double as black jails, and interceptors (i.e., individuals who "catch" petitioners). One county in Hunan province reportedly pays nearly US$300 for each petitioner from the county who is caught in Beijing.[100] Owners of small hotels in Beijing may be compensated up to US$35 per prisoner per day.[101]

There is compelling evidence that black jails in Beijing exist with the knowledge and even cooperation of the Beijing public security bureau.[102] During one of Xu's citizen rescue attempts, Xu was beaten by the guards, who warned him: "We are the government, what can we be afraid of? Do you want to call 110 [police hotline for emergency]? You can call now!"[103] Beijing public security officers

reportedly were also involved in the detention of Wang Shixiang, a petitioner from Anhui province, who was detained in a black jail in Beijing during Secretary of State Hillary Rodham Clinton's visit to China in February 2009.[104] After Wang was beaten by guards at the black jail, he managed to contact the Beijing Public Security Bureau, but once the officers who arrived at the scene learned that Wang was a petitioner, they did nothing to help him.[105]

"Legal education classes" (*fajiaoban* or *xuefaban*) or "study classes" (*xuexiban*), are another form of secret detention used by the Chinese Government.[106] Officials forcibly detain petitioners, Falun Gong practitioners, and other "undesirables" in illegal detention sites where they are, on occasion, forced to study the "error" of their ways with the goal that they achieve a new understanding and cease their conduct.[107] At other times, they are simply held in detention without any pretext of "education."[108] For example, petitioner Zheng Dajing, who went to Beijing to petition and was subsequently abducted and taken back to his hometown of Yunxi county in Hubei province, spent over a year in a detention center that was called a "law education class."[109] Another petitioner from Hubei province, Wang Zan, ended up in a black jail in Wuhan city in early March 2009 after traveling to Beijing to seek justice for having been detained in a "law education class" for 113 days before and during the 2008 Beijing Summer Olympic Games.[110]

In October 2008, the Beijing News broke the story of Sun Fawu, a farmer in Xintai city, Shandong province, who was locked up in a psychiatric hospital by local authorities for approximately 20 days to prevent him from going to Beijing to petition.[111] Sun was tied to a bed and forcibly medicated.[112] Sun was only released after he signed an agreement that he would not attempt to go to Beijing to petition again. Following the Sun Fawu story, more journalists uncovered stories of petitioners like Sun who had no history of mental illness, being forcibly detained in psychiatric hospitals, and in some cases also forced to take medication.[113]

Once an individual "disappears" into a Chinese psychiatric hospital for non-medical reasons, he or she exists completely outside the legal system.[114] For this reason, one Chinese commentator has called psychiatric hospitals in China a "gulag archipelago" with Chinese characteristics.[115] Authorities have also used psychiatric detention as a convenient way to have people simply "disappear" who might present difficulties for the government, for example, in high-profile criminal cases. In the Yang Jia case, for example, Yang's mother, Wang Jingmei, was taken by Beijing public security officers from her home on July 1, the same day that Yang Jia killed six public security officers in Shanghai's Zhabei district's police station.[116] A few days later, Wang, who does not suffer from mental illness, was locked up incommunicado for over four months in a psychiatric hospital (*ankang*) run by the Beijing Public Security Bureau while Yang's case made its way through the courts.[117] Yang's mother apparently knew important information related to the case, and her forced disappearance also may have played some role in her reportedly approving a defense attorney hand-picked by local Shanghai authorities.[118] The attorney selected for Yang Jia, Xie Youming, had ties to the Zhabei district government, which presented a clear conflict of interest.[119] After Wang was finally re-

leased and taken to Shanghai for a final meeting with her son before his execution, Wang insisted on speaking with a judge in Yang's case. When she told the judge her story and asked him why they had prohibited her from testifying at her son's trial and appeal, the judge told Wang that they had been unable to locate her.[120]

In another high profile case during this reporting year—the case of Deng Yujiao—after Deng killed a local official and injured another in self-defense to thwart an attempted rape, authorities in Hubei province detained Deng in a psychiatric hospital.[121] Like Yang Jia, Deng Yujiao garnered much sympathy and support among Chinese Internet users and the media.[122] Shortly after Deng was detained in the hospital, one of Deng's friends managed to get into her room and found her tightly strapped to the bed. Deng's friend reported that Deng had told him that she had been beaten and that officers had threatened her that if she did not admit she suffered from depression, they would give her the death penalty.[123]

The Disappearance of Gao Zhisheng

The prominent human rights attorney Gao Zhisheng was last seen being forcibly taken away from his hometown in Shaanxi province by more than 10 public security officers and "thugs" on February 4, 2009.[124] More than eight months later, Gao still has not been seen and his whereabouts are unknown.[125] Gao angered Chinese authorities by taking on sensitive cases (such as those involving house church activists, Falun Gong practitioners, and victims of illegal property seizures) and exposing human rights abuses in China.[126] In October 2005, Gao wrote an open letter to President Hu Jintao and Premier Wen Jiabao detailing torture of Falun Gong practitioners. A month later, authorities shut down Gao's law firm and revoked his lawyers' license. In December 2006, Gao was convicted of "inciting subversion of state power" and was given a three-year sentence, suspended for five years.[127]

In September 2007, public security officers abducted Gao, apparently prompted by the publication of an open letter Gao had written to the U.S. Congress in which he alleged widespread human rights abuses in China and described the Chinese Government's harsh treatment of him and his family.[128] During his abduction, which lasted more than 50 days, Gao was tortured in an unknown location outside Beijing.[129] Gao's account of his torture, titled "Dark Night, Dark Hood, and Kidnapping by Dark Mafia," was released in February 2009.[130] Gao describes how he was struck repeatedly with electric batons all over his body, including his genitals, and subjected to other forms of torture. He was told that his tormentors—apparently hired "thugs"—were chosen specifically by higher level officials to torture Gao. They called him a "traitor" for writing to the U.S. Congress, and admitted that Falun Gong practitioners were indeed tortured as Gao had alleged, and that Gao would experience the same kind of torture. Gao was also warned that he would be killed if he told anyone about being abducted and tortured.[131]

The Disappearance of Gao Zhisheng—Continued

In January 2009, Gao's wife, Geng He, along with their two children, escaped from China and arrived in the United States on March 11, 2009.[132] Geng He explained that the main reason she defected with her children was that Chinese authorities had prohibited her 15-year-old daughter, Geng Ge, from attending school, which led her daughter to attempt to commit suicide several times.[133] On March 17, 2009, foreign ministry spokesperson Qin Gang denied that the family had been mistreated. The spokesperson stated: "There's no political persecution or limits on the freedom of the family."[134]

Geng He issued an open letter to the U.S. Congress on April 23, 2009, asking that the U.S. Government pressure the Chinese Government to reveal the whereabouts of her husband.[135] In official correspondence with Members of the U.S. Congress in early May regarding Gao's whereabouts, the PRC Ambassador to the United States, Zhou Wenzhong, indicated that Gao is "currently serving the probation" that he was sentenced to on December 22, 2006, and that "the public security authority has not taken any mandatory measure against him."[136]

In June, Gao's older brother, Gao Zhiyi, unsuccessfully attempted to locate his brother in Beijing.[137] Gao Zhiyi first went to the Beijing Public Security Bureau, but was denied entry into the building. He then went to the police station near Gao Zhisheng's home and requested to see his brother.[138] Officers at the police station told Gao that they needed to get instructions from above, and they did not know how long that would take. The officers asked where Gao Zhiyi would be staying in Beijing, and he responded "at my brother's home."[139] The public security officers said that was not permissible, even though Gao Zhiyi had a key to his brother's apartment.[140] Gao Zhiyi reportedly left Beijing without any news of his brother.

On July 10, Bob Fu, president of the U.S.-based non-governmental organization ChinaAid, delivered to the Commission and the U.S. Department of State a petition of more than 100,000 signatures calling for the Chinese Government to release Gao Zhisheng.[141] The petition was also delivered to the PRC Embassy in Washington, DC. In early September, Teng Biao reported on Twitter that Gao had apparently called his family in Shaanxi province in July, but Gao still has not been seen since February and his whereabouts remain unknown.[142] As of the release of this report, there still has been no response from the Chinese Government regarding Gao's whereabouts and condition.

Shuanggui: Extralegal investigatory detention of party members

Shuanggui, (often translated as "double regulation" or "double designation"), refers to the process of summoning a target of investigation (usually a Party official) to appear at a designated place at a designated time.[143] As discussed in the Commission's 2008 Annual Report, *shuanggui* not only contravenes the right to be free from arbitrary detention guaranteed by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, but it also violates Chinese law.[144] *Shuanggui* detainees generally are held in undisclosed locations and do not have the benefit of the PRC Criminal Procedure Law's protections for criminal suspects and defendants.[145] In December 2008, the UN

Committee against Torture expressed concern about "unacknowledged detention facilities" and recommended that the Chinese Government "ensure that no one is detained in any secret facility," noting that such detention violates the Convention against Torture.[146]

Shuanggui continued to be used by Party discipline inspection commissions during the past year to detain high-ranking officials in the Party's ongoing battle against corruption. One senior official after another from Guangdong province's political-legal apparatus has been put under *shuanggui* since last October, when Yang Xiancai, a former head of Guangdong's High People's Court was placed under *shuanggui* for his alleged involvement in a corruption scandal. Huang Songyou, former Vice President of the Supreme People's Court who had spent years working at the Guangdong High People's Court, was also put under *shuanggui* in connection with Yang's case.[147] According to Caijing, a Beijing-based magazine, the Central Discipline Inspection Commission placed Shenzhen municipality's mayor, Xu Zongheng, under investigatory detention in an undisclosed location in early June for what the Xinhua news agency called "serious violations." [148] The allegations involve bribery in connection with large-scale construction and development projects for the 2011 Universiade Games, which will be held in Shenzhen.[149] Xu was promptly stripped of his position as the city's deputy Party secretary, and he later resigned as mayor.[150] In August, the former head of Chongqing municipality's justice bureau was placed under *shuanggui* for alleged connections with triads and organized crime.[151]

REEDUCATION THROUGH LABOR

The reeducation through labor (RTL) system operates outside of the judicial system and the PRC Criminal Procedure Law (CPL); it is an administrative punishment that enables law enforcement officials to incarcerate Chinese citizens at RTL centers for a maximum initial period of three years, with the possibility of an extension of up to one year.[152] According to the non-governmental organization Chinese Human Rights Defenders, public security departments "control the entire process of sending an individual" to an RTL center, and RTL is frequently used to punish, among others, dissidents, petitioners, Falun Gong adherents, and religious practitioners who belong to religious groups not approved by the government.[153] Earlier this year, Professor Fu Hualing, head of the Department of Law at the University of Hong Kong, wrote that RTL "continues to be used, extensively, for political control and persecution." [154]

During the February 2009 session of the UN Human Rights Council's Universal Periodic Review of the Chinese Government's human rights record, the Chinese Government stated that there were currently 320 RTL centers in China with approximately 190,000 inmates.[155] In 2005, Chinese official statistics put the number of RTL inmates at 500,000 (in 310 RTL centers).[156] The Dui Hua Foundation reports that the decline in the RTL population may reflect the movement of drug-related offenders from RTL centers to drug rehabilitation facilities, but that it also perhaps may reflect an effort by the government to reduce the number of RTL

inmates with the goal of modifying or possibly eventually abolishing the system.[157]

In February, Chinese Human Rights Defenders (CHRD) issued a report on RTL which was based on a survey of over 1,000 petitioners in Beijing (many of whom were previously detained in RTL centers) and interviews with 13 former RTL inmates. According to CHRD's report, frequent beatings and torture, forced heavy manual labor with little or no compensation, little medical care, deprivation of access to family and counsel, little or no exercise, and poor diet appear to be standard practices in RTL centers.[158] CHRD also reported that "fellow detainees, usually camp bullies, are appointed 'supervisors.' They are instructed by camp officials to carry out torture and mistreatment and given free rein to tyrannize others." [159]

While there are several avenues for challenging RTL decisions, such as administrative reconsideration or a lawsuit under the PRC Administration Litigation Law (ALL), such efforts rarely are successful.[160] CHRD reports that courts often refuse to accept ALL cases relating to reeducation through labor, and that external interference (from, for example, local government and Party officials) when a court does accept an ALL lawsuit means little chance of success for RTL inmates.[161] Of more than 1,000 petitioners surveyed by CHRD, only 5 percent had applied for administrative review or filed an ALL action.[162] Not one RTL decision was overturned. One petitioner interviewed by CHRD stated: "We simply don't know how to seek legal remedies. No one will help us or tell us where to look. When I was released I actually sought legal remedies, but without any results whatsoever." [163]

Reformists and legal experts within China have been calling for an end to reeducation through labor for decades.[164] Perhaps the most recent public call to end reeducation through labor came in the document Charter 08, which was issued by 303 Chinese intellectuals, activists, and others in December 2008.[165] The Charter states: "A democratic and constitutional China especially must guarantee the personal freedom of citizens. No one should suffer illegal arrest, detention, arraignment, interrogation, or punishment. The system of 'Reeducation Through Labor' must be abolished." [166]

Torture, Abuse, and Deaths in Custody

UN PROCEEDINGS

In its final report on its review of China, the UN Committee against Torture (UNCAT) noted that it "remains deeply concerned about the continued allegations . . . of routine and widespread use of torture and ill-treatment of suspects in police custody, especially to extract confessions or information to be used in criminal proceedings," while at the same time it welcomed China's "efforts to address the practice of torture and related problems in the criminal justice system." [167] UNCAT repeated its call for China to adopt the exclusionary rule so that evidence obtained through torture would be inadmissible and that it amend its law to reflect the definition of torture contained in the Convention against Torture.[168] Moreover, the UNCAT noted that the provisions in China's laws that prohibit the use of torture are limited to the use of torture to extract confessions, but should prohibit torture for all purposes.[169] A

spokesman for the Chinese Foreign Ministry called UNCAT's report "untrue and slanderous." [170]

UNNATURAL DEATHS IN DETENTION CENTERS

In its December 2008 report, UNCAT expressed concern about "reports of abuses in custody, including high numbers of deaths, possibly related to torture or ill-treatment, and about lack of investigation into these abuses and deaths in custody." [171] Just a few months after UNCAT's report was issued, reports of a 24-year-old inmate's unnatural death in a detention center (*kanshousuo*) in Yunnan province sparked online protests, and more reports of other unnatural deaths in detention centers soon followed.[172] The spate of deaths in detention centers early this year prompted calls for reform from academics, Internet users, and some government officials.[173] Detention centers are run by the Ministry of Public Security and are where suspects and defendants are held during investigation and trial.[174] Duan Zhengkun, a former vice minister of justice, stated that "[d]etention houses should not be managed by public security departments, because they make arrests, and sometimes torture the accused to force them to confess." [175]

The debate over detention center deaths has focused on two principal issues: (1) confessions extracted through torture and mistreatment of detainees, and (2) the use of inmates by detention center guards to serve as "jail bullies" (*laotou yuba*) to control and abuse other inmates.[176] In late April, the Supreme People's Procuratorate (SPP) disclosed that there had been 15 unnatural deaths in detention centers to date in 2009,[177] and initiated a five-month review of the nearly 3,000 detention centers across the country, with the goal of cracking down on "jail bullies" and ensuring "proper management" of detention centers.[178] In mid-July, Xinhua reported that the SPP had completed its investigation of 12 of the 15 unnatural deaths in custody and concluded that 7 had been beaten to death, 3 had committed suicide, and 2 had died in accidents.[179]

The 2009–2010 National Human Rights Action Plan (HRAP) released in mid-April restated the legal prohibition against confessions coerced by torture.[180] The HRAP further declared that "the state will improve legislation concerning prison management and take effective measures to ensure detainees' rights and humanitarian treatment." [181] In order to prevent detainee abuse during interrogations, the HRAP mandates a physical barrier in all interrogation rooms to separate detainees and interrogators, and that the detainees shall be physically examined before and after interrogations.[182] If the policies pronounced in the HRAP are implemented fully in law, regulations, and practice, they would mark an important step toward the prevention of detainee abuse during interrogations.

TORTURE AND ABUSE

In addition to the reports of abnormal deaths in detention centers during 2009, reports of nonfatal torture and abuse in detention centers, prisons, and reeducation through labor (RTL) centers continued during the past year. As noted above, Chinese Human Rights Defenders (CHRD) has documented that torture and abuse in RTL centers is a common occurrence.[183] Torture and abuse in

detention centers and prisons remains widespread, despite the central government's repeated efforts to address this longstanding problem.[184] Guards use torture to coerce confessions and enlist "jail bullies" to abuse inmates either under the direction of prison guards or with their knowledge.[185]

Chinese authorities continue to subject political prisoners to long periods of solitary confinement, in contravention of the PRC Prison Law and international human rights standards.[186] U.S. permanent resident and democracy activist Wang Bingzhang, who is serving a life sentence in Beijiang Prison, in Guangdong province, has been held in solitary confinement for years.[187] When a family member asked the prison warden why Wang was being held in solitary confinement, the warden reportedly said that because there were no other political prisoners in the prison, there was no one else with whom Wang could share a cell.[188]

In July, the Supreme People's Procuratorate reported that in the first six months of 2009, procuratorates found 6,430 violations relating to the management of detention facilities and prisons, a 114-percent increase from the same period in 2008.[189] Deputy procurator-general Sun Qian stated that, as of mid-July, 291 people reportedly had been charged as a result of 243 investigations.[190]

MEDICAL CARE

The U.S. State Department observed in its report on China's human rights situation for 2008 that "adequate, timely medical care for prisoners remained a serious problem, despite official assurances that prisoners have the right to prompt medical treatment."[191] Chinese Human Rights Defenders reports that there is "extremely limited medical care" available to inmates in RTL centers.[192] Authorities have reportedly denied imprisoned legal advocate and rights defender Chen Guangcheng adequate medical treatment.[193] Both Chen and his wife (on Chen's behalf) have applied for medical parole, but with no result.[194] Hu Jia's wife, Zeng Jinyan, has expressed ongoing concern over the health of her husband, who suffers from hepatitis.[195] After visiting Hu Jia in prison in April, Zeng wrote on her blog that Hu continues to lose weight, and that he told her he was unable to eat.[196] Huang Qi, the Sichuan province-based human rights activist who was tried on "illegal possession of state secrets" charges in August, reportedly has been denied access to medical attention.[197]

Access to Counsel

Most Chinese defendants confront the criminal process without the assistance of an attorney, despite the right to legal assistance provided under Article 14(3)(d) of the International Covenant on Civil and Political Rights, which China has signed, but not yet ratified.[198] The Chinese media recently reported that less than 30 percent of criminal cases proceed with the involvement of a defense attorney, and several lawyers interviewed indicated that in some places, the rate is between 10 to 20 percent.[199] The lawyers, including prominent criminal defense attorney Tian Wenchang, attributed the low rate of defense attorney involvement to several factors, including the risks and difficulties criminal defense attorneys

face and the low compensation for criminal defense work compared with other areas of law.[200]

As Professor Jerome Cohen recently observed regarding pre-trial detention in China, "most accused remain detained throughout the trial and appellate process. Bail applications are seldom granted. . . ."[201] Detained suspects and defendants who do have legal representation continue to face substantial obstacles in meeting with their attorneys. In December 2008, the UN Committee against Torture noted "with concern the lack of legal safeguards for detainees, including . . . restricted access to lawyers."[202] More than a year has passed since the implementation of the revised PRC Lawyers Law, which was amended in part to address the longstanding "three difficulties" (*san nan*) facing defense attorneys (i.e., gaining access to detained clients, reviewing the prosecutors' case files, and collecting evidence).[203] Some of the provisions of the revised Lawyers Law conflict with the PRC Criminal Procedure Law (CPL), however.[204] For example, with respect to gaining access to detained clients, the revised Lawyers Law provides that a lawyer need only show the "three certificates" (i.e., lawyer's license, certificate from the lawyer's law firm, and a power of attorney or legal aid papers) in order to meet with a detained suspect or defendant after the first interrogation, whereas the CPL stipulates that if the case involves state secrets, the lawyer must first obtain permission from the investigating entity (i.e., public security bureau or procuratorate).[205] The Lawyers Law prohibits the monitoring of attorney-client meetings, while the CPL provides that investigating officers, when it is deemed necessary, have a right to be present at such meetings.[206]

Since the revised Lawyers Law took effect, access to detained clients in ordinary, nonsensitive cases reportedly has improved in Beijing and some other large cities.[207] The chair of the Beijing Lawyers Association Criminal Defense Committee stated that lawyers in Beijing now have better and easier access to detained clients, and that they are able to see clients in detention centers with just the "three certificates."[208] He noted, however, that permission was still necessary in state secrets' cases.[209] Beijing's Haidian District Public Security Bureau reported that it has implemented several practical measures to facilitate attorney-client meetings, such as setting up special meeting rooms and a lawyers' "reception room," which has a full-time staff member to assist with, among other things, arranging attorney-client meetings.[210] In addition, Beijing judicial authorities abolished an internal rule operative in detention centers that two lawyers had to be present for meetings with a detained client (now a single lawyer can meet a client on his or her own).[211]

The revised Lawyers Law has been less successfully implemented in other jurisdictions. In May 2009, the Legal Daily (*Fazhi Ribao*), Legal System Net (*Fazhi Wang*), and the All China Lawyers Association (ACLA) conducted an online survey regarding the right of lawyers to meet with detained clients.[212] Of 1,610 respondents (comprised of 1,080 lawyers, 187 individuals from the public security system, procuracy, and the courts, and the rest from other professions), 73.4 percent indicated that the situation had not improved at all after the implementation of the revised Lawyers Law.

Only 8 percent of the respondents believed that the right of lawyers to meet with detained clients was being implemented entirely consistently with the new Lawyers Law.[213]

One challenge to the protection of lawyers' professional rights is the belief among some law implementation agencies that because they are responsible for implementing the Criminal Procedure Law (CPL), they must follow the current CPL, irrespective of the revisions to the Lawyers Law, which they also view as being a "lesser" law that regulates only the legal profession.[214] While some experts contend that the provisions of the revised Lawyers Law governing lawyers' professional rights can be fully realized through amendment of the CPL, others believe more fundamental change is necessary.[215] Professor Chen Ruihua, a prominent criminal procedure professor at Peking University Law School, believes that the "three difficulties" are a product of China's judicial system itself and that "without reform of the judicial system 'the three difficulties' will never be resolved—revising the CPL won't make any difference."[216]

In politically sensitive cases, authorities continue to frequently deny detained suspects and defendants access to counsel. For example, authorities unlawfully denied well-known criminal defense attorney Mo Shaoping permission to see his detained client, prominent intellectual and Charter 08 signatory Liu Xiaobo, from early December 2008 through mid-June 2009—the duration of Liu's (illegally prolonged) residential surveillance.[217] Under Chinese law, an individual subject to residential surveillance does not need to obtain permission to meet with his or her attorney.[218] [See Section II—Freedom of Expression, for a discussion of Liu Xiaobo's detention and arrest.] In late March 2009, Jiang Tianyong and Tang Jitian—two of the human rights lawyers whose licenses to practice law were not renewed by the May 31 deadline this year—were prevented from meeting their detained client, Ge Hefei, a Falun Gong practitioner, in Hebei province.[219] Jiang and Tang, who had been entrusted to represent Ge by Ge's family, were told by court personnel that Ge had not hired them and had not requested to see them. The lawyers argued that they had a right to see Ge and ask him directly whether he agreed to their representation and that Ge had a right to access to defense counsel.[220] [See Section III—Access to Justice—Harrasment and Intimidation of Human Rights Lawyers.]

In its February report on reeducation through labor (RTL), Chinese Human Rights Defenders (CHRD) stated that many former RTL inmates the organization surveyed complained of lack of access to counsel and legal remedies. Although some of the former RTL inmates may have qualified for legal aid, CHRD observed that "government-funded lawyers are unwilling to advocate for RTL detainees because they are on the 'wrong side' of the local government."[221] Individuals who have "disappeared" incommunicado into black jails (including those held in psychiatric hospitals) are deprived of their right to access to counsel.[222]

Although most criminal cases in China proceed without a defense attorney's involvement, in high-profile cases, authorities generally endeavor to ensure that defendants have some form of representation. The main access-to-counsel issues presented in such cases are

whether the defendants or their family members are able to hire counsel of their own choosing, and whether government-assigned attorneys are, in fact, working in the defendant's best interests. The Commission reported on this issue in the context of the defense of Tibetans detained after the protests in March 2008. The Tibetans were prevented from hiring attorneys of their own choosing and instead were assigned government-selected attorneys.[223] This year, following the July 5 demonstration in Urumqi, Xinjiang Uyghur Autonomous Region and outbreaks of violence starting that day, the Beijing Justice Bureau issued an urgent notice calling upon Beijing's law firms and lawyers to "clearly recognize the nature" of the July 5 "beating, smashing, looting, and burning" incident in Urumqi and to "resolutely stand on the side of protecting national unity and harmony among ethnic groups" and exercise "caution" with respect to receiving requests for legal advice and representation.[224] The government-controlled Xinjiang Lawyers Association likewise warned Xinjiang attorneys against getting involved in July 5-related cases.[225] [See Section IV—Xinjiang.]

An important issue in the Yang Jia case was whether Yang had access to counsel of his own choosing. As discussed above, Yang Jia killed six police officers and injured several others at the Zhabei district police station in Shanghai in July 2008, possibly in retaliation for police abuse he reportedly suffered in the fall of 2007 at the Zhabei police station.[226] Yang Jia's mother, Wang Jingmei, with whom Yang had been living in Beijing before the attack, disappeared the night of the killings and was locked up in a Beijing public security-run psychiatric hospital (*ankang*) until just before Yang Jia was executed.[227] During Wang Jingmei's detention in the *ankang,* officials reportedly presented her with a document authorizing an attorney named Xie Youming to represent Yang Jia; Wang signed the document.[228] Xie had ties to the Zhabei district government, which raised doubts about his ability to fairly and vigorously represent Yang.[229] Yang Jia's father did not agree to Xie representing his son, and instead lined up a group of Beijing criminal defense lawyers to act on his son's behalf, but Shanghai authorities prevented the Beijing lawyers from seeing Yang Jia. Judicial authorities reportedly told the lawyers from Beijing that Yang Jia already had defense attorneys and that he did not want new ones.[230]

Another high-profile case in which local officials appeared to have had a hand in selecting defense counsel (and sidelining lawyers from Beijing) is the Deng Yujiao case.[231] In May 2009, Deng became an Internet sensation after news spread that she had stabbed a local official in Badong county, Hubei province to death and injured another while defending herself against an attempted rape.[232] After Deng was taken away to a psychiatric hospital,[233] two Beijing lawyers, Xia Lin and Xia Nan (no relation), volunteered to represent Deng Yujiao pro bono.[234] Deng's mother hired the two lawyers. On May 21, after the two lawyers met with Deng Yujiao, Xia Lin filed a petition with the Badong Public Security Bureau demanding that the police press charges against the injured official, Huang Dezhi, for sexual assault.[235] Xia Lin and Xia Nan were promptly fired. The lawyers learned of their dismissal as Deng Yujiao's attorneys from the Badong county government's Web site.[236] Deng's mother then hired two local attorneys.[237]

Prominent intellectual and Charter 08 signatory Liu Xiaobo, who has been detained since early December 2008, was also denied counsel of his own choosing. Liu's family had retained the well-known defense attorney Mo Shaoping to represent Liu Xiaobo.[238] After public security officers formally arrested Liu on June 23 for "inciting subversion," Mo Shaoping was informed that he was prohibited from representing Liu because he had also signed Charter 08.[239] Two other attorneys from Mo Shaoping's law firm, Shang Baojun and Ding Xikui, are currently representing Liu.[240]

Fairness of Criminal Trials

The "three difficulties" faced by criminal defense lawyers discussed above has serious consequences for the fairness of criminal trials. In addition, because of the risks presented by Article 306 of the PRC Criminal Law (the lawyer-perjury statute), most defense attorneys reportedly engage in passive defense; they focus on finding flaws and weaknesses in the prosecutors' evidence rather than actively conducting their own investigations.[241] According to well-known criminal defense lawyer Tian Wenchang, because of these challenges and risks, it is difficult for defense attorneys to present evidence of innocence or of a lesser crime.[242] Moreover, there is a strong presumption of guilt, especially in "politically sensitive" cases.[243]

The failure of witnesses to appear in court to present testimony is a longstanding problem in China and is widely recognized as such by lawyers, scholars, officials, and the media.[244] In late June 2009, the Chinese magazine Caijing reported that "the physical presence of a courtroom witness is rare in China."[245] Most criminal cases proceed solely on the basis of written witness statements that the prosecution presents to the court; the defense attorneys have no opportunity to question and cross-examine the witness who made the statement about its contents.[246] The PRC Criminal Procedure Law states only that witnesses have a duty to testify; it does not require that witnesses appear in court to present live testimony, and there is no punishment for failure to appear.[247]

Chinese Government and Communist Party interference in court proceedings and decisions is common, particularly in "politically sensitive" cases.[248] While the Caijing report on the absence of witnesses in courtrooms noted that no eyewitnesses appeared at Deng Yujiao's trial, the eyewitness testimony in Deng's case would have mattered only if the trial actually had been an attempt to determine innocence or guilt and assess whether Deng Yujiao's self-defense was justifiable or "excessive" under Chinese law. But the outcome of Deng's two-and-a-half-hour trial appears to have been a deal arranged in advance.[249] Immediately upon conclusion of the trial, Deng was found guilty of inflicting intentional harm, but was exempted from punishment because, the court ruled, she had acted in self-defense and had turned herself in, and because she was found to have suffered from a mental illness and thus did not bear full criminal responsibility.[250] Prominent human rights attorney Pu Zhiqiang told the South China Morning Post that there was no debate over evidence during the trial; it was "like the actual case itself was not important. What was important was to achieve a result acceptable by all sides."[251] Pu opined that while the case may

have been something of a victory for public opinion, it was "definitely not a victory for the law."[252]

Lengthy pre-trial detention and the reliance of public security officers and prosecutors on confessions to "establish" guilt remain the norm. Consequently, the widespread use of torture to extract confessions, a longstanding problem acknowledged by the Chinese Government, persists.[253] Confessions coerced through torture and other illegally obtained evidence continue to be admissible in courts, with obvious implications for the fairness of criminal trials.[254] In August 2009, an official from the Supreme People's Procuratorate (SPP) announced that the SPP would soon introduce a new regulation making confessions coerced through torture inadmissible in death penalty cases.[255] The regulation purportedly will also mandate that prosecutors investigate and prosecute law enforcement personnel who may have coerced a confession through torture or otherwise used violence to obtain evidence.[256]

Although Chinese law requires that first-instance trials be held in public, there is an exception for cases involving state secrets.[257] Politically sensitive cases are routinely closed to the public, even to family members of the defendant.[258] Yang Jia's murder case was not a "state secrets" case, but officials barred Yang Jia's family and friends from attending his trial.[259] Yang's mother was detained illegally in a psychiatric facility in Beijing during Yang's trial and appeal, and the lawyers from Beijing that Yang's father had hoped could represent his son were also prevented from observing Yang's first-instance trial.[260] Yang Jia's father attended the appeal, as did Beijing lawyer and blogger Liu Xiaoyuan and Ai Weiwei, the artist and blogger.[261] Yang had a new attorney on appeal, who expressed concern about the fairness of that proceeding.[262]

In another death penalty case during this reporting year, Wo Weihan, a Chinese citizen, was convicted of military espionage for Taiwan and endangering state security in May 2007 and sentenced to death.[263] In March 2008, the Beijing High People's Court affirmed the conviction and death sentence; the Supreme People's Court approved the death sentence in November 2008, and he was executed later that month. Wo's case apparently was plagued by procedural irregularities; he was denied access to his lawyer for 10 months following his initial detention, and evidence used against him was not made available for his defense, allegedly because it involved "state secrets."[264] Wo reportedly made a confession while he was detained without access to his lawyer, because officials told him he would not be prosecuted if he signed a confession.[265] Wo was tried behind closed doors.[266] The first and only time Wo's family was permitted to see Wo since he was first detained in 2005 was the day before Wo was executed in late November 2008.[267]

Capital Punishment

During the UN Human Rights Council's Universal Periodic Review of the Chinese Government's human rights record in February 2009, several delegations raised issues relating to China's use of the death penalty; most of the recommendations focused on transparency and reduction in the number of crimes, particularly nonviolent crimes, for which the death penalty was available. The Report of the Working Group on the Universal Periodic Review notes

that the Chinese delegation stated that the use of the death penalty is strictly controlled, and that in practice, it "is only applied to very serious crimes and is not used in most of the applicable crimes."[268] China stated that it would review the recommendations "to reduce the number of crimes subject to [the] death penalty, especially for non-violent crimes."[269] In its 2009–2010 National Human Rights Action Plan, the Chinese Government stated that the death penalty "shall be strictly controlled and prudently applied."[270]

As noted in last year's Annual Report, in early May 2008, the Supreme People's Court (SPC) reported that there was a 30-percent drop in death sentences during 2007, the first year in which SPC review of death sentences was restored, compared with 2006.[271] And in late June 2008, the SPC announced that it had overturned 15 percent of all death sentences handed down by lower courts during 2007 and the first half of 2008.[272] At the end of July 2009, the SPC stated that only an "extremely small number" of serious criminals would receive the death penalty and that death sentences with a two-year reprieve (*sihuan*) would be used more often, but the SPC did not release figures comparing the 2007 and 2008 execution rates or the percentage of death sentences the SPC overturned.[273] The number of executions carried out annually remains a state secret.[274] Based on publicly available reports, Amnesty International concluded that there was a 260-percent increase in the number of executions in China in 2008, compared with 2007. Amnesty International stated that 1,718 people were executed in China during 2008 (compared with 470 executions in 2007), and that 7,000 individuals were sentenced to death.[275] In late August, the Dui Hua Foundation estimated that there will be approximately 5,000 executions in China during 2009.[276]

In June 2009, China Daily reported that by the end of the year, all those sentenced to death in Beijing would be executed by lethal injection, rather than a firing squad.[277] Hu Yunteng, director of research at the SPC, was quoted as saying that lethal injections were "cleaner, safer and more convenient."[278] Lethal injection was legalized in China as an alternative to shooting in the 1996 Criminal Procedure Law.[279] Lethal injections were first used in Yunnan province, and then gradually were used elsewhere in China.[280] The SPC indicated that eventually lethal injections would be used nationwide as the sole form of execution.[281] Liu Renwen, a criminal law scholar at the Institute of Law at the Chinese Academy of Social Sciences, who advocates for the abolition of the death penalty, wrote that he believed the developments in Beijing were a step toward the eventual abolition of the death penalty.[282] Donald Clarke, professor of Chinese law at George Washington University Law School noted, however, that the public discussion of lethal injections in China seemed to sidestep issues regarding the potential problems with death by lethal injection.[283]

During this reporting year, it was evident that procedures regarding family visits and information transparency for individuals facing imminent execution were in need of an overhaul. Wo Weihan's family, who had not been able to see him since Wo was first taken into custody in 2005, met with Wo for the first time on November 27, 2008, after the SPC had approved his death sen-

tence.[284] The authorities told the family that they would be able to have a second visit with Wo before he was executed. Wo was instead put to death the next day, on November 28, before the promised second family visit.[285] In Yang Jia's case, Yang's father only had one visit with Yang since he was detained after the killings on July 1, and that was in October 2008.[286] Yang's father was not able to see his son before he was executed, and only learned of the execution after Yang had been put to death on November 26, 2008.[287] On November 23, Chinese officials suddenly took Yang Jia's mother, Wang Jingmei, from the psychiatric hospital in Beijing where she was being held to Shanghai to meet with her son.[288] She knew absolutely nothing about his case, let alone that the SPC had already approved Yang's death sentence. Wang also did not know that her meeting with Yang on November 24 would be the last time she would see her son.[289]

FREEDOM OF RELIGION

Introduction

The Chinese Government continued during the Commission's 2009 reporting year to strictly control religious practice and repress religious activity outside of state-approved parameters. Local governments implemented measures to prevent "illegal" religious gatherings and curb other "illegal" religious activities, in some cases destroying sites of worship and detaining or imprisoning religious believers. Government efforts to discredit the Dalai Lama and to transform Tibetan Buddhism into a doctrine that promotes government positions and policy escalated, resulting in continuing Tibetan demands for freedom of religion and the Dalai Lama's return to Tibet.[1] Buddhist communities outside the tradition of Tibetan Buddhism also faced continued government controls, and unregistered Buddhist temples remained subject to closure and demolition by government authorities.[2] Catholic bishops in China's unregistered church community remained in detention, home confinement, under surveillance, in hiding, or in unknown whereabouts, while authorities strengthened rhetoric on the state-controlled Catholic church's independence from the Holy See.[3] The government maintained its longstanding ban against the Falun Gong spiritual movement and other religious and spiritual groups deemed to be cults, subjecting some members to detention, imprisonment, and other abuses.[4] Repression of Islam in the Xinjiang Uyghur Autonomous Region (XUAR) worsened as authorities strengthened security campaigns targeting "religious extremism," and outside the XUAR, the government also maintained broad controls over the practice of Islam.[5] The government continued to subject registered Protestant congregations to tight state control over their internal affairs and officials continued to target some unregistered Protestant churches for closure and to harass, detain, or imprison some church leaders and members.[6] Authorities maintained restrictions over the activities of registered Taoist priests, and unregistered Taoist priests were subject to penalties for failing to submit to state control.[7] Other religious and spiritual communities remained without legal recognition to practice their faith.[8]

During the Commission's 2009 reporting year, the government also continued to use legal measures to restrain, rather than protect, the religious freedom of all Chinese citizens.[9] Children faced continued restrictions on their right to freedom of religion, and parents and guardians faced restrictions on their right to impart a religious education to children.[10] The Chinese Government continued to deny its citizens the freedom to prepare and distribute religious texts.[11] The government has permitted, and in some cases, sponsors, the social welfare activities of state-sanctioned religious communities, but in the past year, authorities also took steps to block some social welfare activities by unregistered religious groups.[12]

The Chinese Government and Communist Party maintained an antagonistic stance toward religion in the past year and continued to affirm basic policies of control over religious practice.[13] In addition to imposing controls over religion upon all citizens, the Party also maintained prohibitions on Party members' belief in or practice of religion, thereby cutting off religious adherents from career

opportunities, including high-level government and enterprise jobs, contingent on Party membership.[14] In an October 2008 speech, State Administration for Religious Affairs Director Ye Xiaowen called for deepening study of Marxist and Communist Party viewpoints toward religion and for "keeping tabs" on religious leaders, religious activity, and sites of worship.[15] Late 2008 anniversaries within the state-controlled Catholic and Protestant churches reaffirmed the government and Party roles in defining theology and controlling interaction between Chinese religious adherents and foreign religious institutions.[16] Authorities continued to soften some rhetoric toward religion by articulating a "positive role" for religious communities in China, but used this sentiment to bolster support for state economic and social goals.[17] At the same time, officials and central government directives continued to warn against foreign groups "using religion" to "interfere" in China's affairs and "sabotage" the country.[18] A press communique from the PRC Embassy in the United States included "freedom of religious belief" among "sensitive issues" to "properly handle" in order to advance progress in U.S.-China relations.[19]

The Chinese Government's legal and policy framework for religion violates the protections for freedom of religion set forth in Article 18 of the Universal Declaration of Human Rights, Article 18 of the International Covenant on Civil and Political Rights, and other international human rights instruments.[20] Although the PRC Constitution states that all citizens enjoy "freedom of religious belief," it limits citizens' ability to exercise their beliefs by protecting only "normal religious activities,"[21] a vaguely defined term in both law and practice that has been used as a means to suppress forms of religious activity protected under international human rights law.[22] In addition, the government has created a regulatory framework that in practice recognizes only five religions—Buddhism, Catholicism, Taoism, Islam, and Protestantism—for limited state protections for religious activity.[23] Variations in implementation of government policy have enabled some unrecognized religious groups to carry out activities,[24] but arbitrary toleration by some local officials does not amount to Chinese Government protection of these communities' freedom of religion. In addition, the government has continued to formally outlaw some religious and spiritual groups,[25] thereby wholly denying members of these communities the right to practice their faith openly. Despite creating space for some citizens to practice their religion within government-approved parameters,[26] where some, but not all, Chinese citizens are allowed to do so, and where members of China's five government-sanctioned religious communities remain subject to tight controls over their affairs, the Chinese Government has failed in its obligation to protect Chinese citizens' right to freedom of religion.

The Legal Framework for Religion in China

The Chinese Government uses law as a tool to restrain rather than protect Chinese citizens' right to freedom of religion. Although the national Regulation on Religious Affairs (RRA) and local government regulations provide a measure of protection for some religious activities, such protection is limited in scope and applies only to state-sanctioned religious communities.[27] Under Chinese regula-

tions, religious communities must apply to register with the government and must submit to state control over their affairs.[28] Registered groups must receive government approval to establish venues for worship.[29] Religious and spiritual groups that do not meet registration requirements and groups that choose not to submit to government control through registration risk harassment, detention, closure of sites of worship, and other abuses.[30] Members of registered groups also risk repercussions where authorities deem their practices to fall outside vaguely defined legal protections for "normal religious activities."[31]

Based on Commission analysis, the pace of legislation on religious affairs at both the central and provincial government levels slowed in the past year, a trend with potentially negative consequences despite the use of law as a means to restrain religious practice. Chinese Government efforts in recent years to legislate on religious practice have lent some formal transparency and consistency to government policies on religion, including as they relate to the limited number of legal protections for religious practice. The slowed pace of legislation also means that local government officials may continue to regulate religious affairs based on older, local regulations inconsistent with the RRA, creating a confusing legal terrain for citizens who aim to understand their rights. After eight provincial areas reported issuing new or amended regulations in 2005 and 2006 in accordance with the RRA, three provincial-level areas reported taking such action in 2007. In 2008 and in 2009, Shaanxi, Jiangsu, and Hubei provinces issued amended or new regulations on religious affairs.[32]

The RRA does not include criminal penalties for violation of its provisions,[33] but the Chinese Government uses the PRC Criminal Law and related legal provisions as a means to punish and detain people for forms of religious practice deemed to fall outside of approved parameters.[34] In addition, the Chinese Government uses administrative punishments, including reeducation through labor, to fine or detain citizens outside the formal criminal justice system.[35] Authorities also have penalized or detained religious citizens without adhering to formal legal processes.[36]

In this reporting year, the Commission observed an increase in official pressure, harassment, and abuse of lawyers who defend religious adherents, among other groups. Although some religious communities and their lawyers have had some success in recent years in using the legal system to challenge official abuses,[37] events from the past year underscore continuing challenges that communities face in defending their rights and that lawyers face in carrying out their work. [See Section III—Access to Justice for detailed information on the harassment of attorneys and see China's Religious Communities—Falun Gong and China's Religious Communities—Protestants within this section for specific information on attorneys harassed and detained for their activities defending members of these communities.]

Restrictions on Children's Freedom of Religion

In the past year, children continued to face restrictions on their right to freedom of religion, and parents and guardians faced restrictions on their right to impart a religious education to children.

The various restrictions lack basis in national Chinese law and contravene protections in international human rights law, including in treaties the Chinese Government has signed or ratified.[38] In some cases, authorities extended restrictions to young people and college students above the age of 18, who are considered adults under Chinese law.[39] While a government spokesperson said in 2005 that no laws prohibit children from believing in a religion and that parents may provide a religious education to their children, some provincial legislation continues to penalize acts related to imparting religion to children.[40] Though variations in local government practices have enabled children in some localities to access religious sites and religious education,[41] the Commission in the past year tracked reports of ongoing efforts to prevent children from participating in religious activities.[42] For example, local authorities in the Xinjiang Uyghur Autonomous Region have continued to impose restrictions on children's freedom of religion through measures such as monitoring their activities outside of school and launching a campaign to "weaken religious consciousness" among young adults and juveniles. [See China's Religious Communities—Islam in this section for more information.] Authorities also have condemned Western religious organizations perceived to focus their activities on Chinese youth. An August 2008 speech by an official in Jiangxi province cautioned against "Western hostile forces" using religion to carry out "ideological infiltration" of young adults and juveniles, expressing concern about Christian organizations in particular.[43] The references to "young adults" (*qingnian*) illustrated efforts to extend restrictions on children's freedom of religion to people over the age of 18. In fall 2008, authorities targeted house churches near college campuses in Beijing and Hangzhou, Zhejiang province, detaining students in attendance, accusing church members of "preaching to students," and ordering four church leaders to serve reeducation through labor.[44] A report from Shaanxi province made available in January 2009 referred to a notice implemented in recent years on "prohibiting Catholic catechism classes for young adults and juveniles."[45]

Controls Over Religious Publications

The Chinese Government denies its citizens the freedom to prepare and distribute religious texts,[46] and Chinese authorities continue to punish religious adherents who publish or distribute religious materials independent of government controls. In June 2009, a Beijing court sentenced bookstore owner Shi Weihan to three years' imprisonment for "illegal operation of a business," a crime under Article 225 of the Criminal Law,[47] because Shi had printed and given away Bibles.[48] Six other people connected to the case also received prison sentences.[49] Authorities had held Shi in detention since March 2008 and earlier detained him between November 2007 and January 2008 in connection to the same activities.[50] The government controls the publishing and distribution of approved religious materials, and some churches have reported an insufficient supply of Bibles.[51] Authorities have confiscated Bibles imported to the country,[52] and in the past year, officials confiscated Bibles in raids on house churches.[53] In 2008, authorities in the Xinjiang Uyghur Autonomous Region made "illegal" religious and political publica-

tions the focal point of a censorship campaign in the region.[54] [See China's Religious Communities—Islam in this section for more information.]

Social Welfare Activities by Religious Communities

In the past year, the Chinese Government continued to permit, and in some cases, sponsor, the social welfare activities of state-sanctioned religious communities, but authorities also took steps to block some activities by non-registered groups. The national Regulation on Religious Affairs permits registered religious organizations to engage in social welfare activities, as have earlier regional regulations.[55] In addition, the Chinese Government's 2009–2010 National Human Rights Action Plan, released in April 2009, also states support for religious organizations' social welfare activities.[56] In the aftermath of the May 2008 Sichuan earthquake, religious communities in China provided aid to earthquake victims, including in partnership with overseas religious organizations,[57] but some groups, especially unregistered organizations, met with official sanction. In October 2008, the Shifang city, Sichuan province, United Front Work Department—the Communist Party office that among other tasks oversees religious communities in China—described taking steps to curb "illegal proselytizing" in accordance with provincial-level directives on blocking proselytizing at disaster relief sites, one of which singled out underground Protestant groups in particular.[58] In November, the U.S.-based organization ChinaAid reported that the Ministry of Civil Affairs ordered the abolition of the organization known as the Chinese House Church Alliance, on the grounds that the group, which had engaged in earthquake relief work among other activities, was operating without registration as a social organization.[59] In December 2008, public security officers in an earthquake-affected village in Beichuan county, Sichuan province, disrupted reconstruction activities led by house church volunteers, detaining some people and confiscating property including religious materials.[60] Zhang Xiuzhi, a registered church member who inquired about official mishandling of earthquake relief donations, reportedly was ordered to serve one year of reeducation through labor in April for "disturbing social order."[61] In June 2009, authorities in Nanbu county, Sichuan province, detained house church members Wei Sanhong and Wu Han and imposed administrative punishments on them in apparent connection with their earthquake disaster relief activities through their church.[62]

China's Religious Communities

BUDDHISM

Although few reports of repression of Chinese Buddhists in non-Tibetan areas reach the international community, the Chinese Government and Communist Party exercise control over the institution and practice of Buddhism by ethnic Han citizens in much the same manner as for religions that demonstrate much higher levels of protest against state control of religion.[63] The government requires all Buddhist monks, nuns, and institutions to register with the state-run Buddhist Association of China (BAC) in order to practice

Buddhism legally.[64] Officials often harass unregistered Buddhist groups, forcibly close their meeting sites, detain their leaders, and in cases where authorities brand such groups a "cult," punish them with detention or reeducation.[65] Communities under the BAC encounter rules and regulations that cast nationalism and loyalty to the Communist Party as religious obligations with which Buddhists must comply and prohibit religious practices from being carried out at temples that the government deems "superstitious activities."[66] The BAC imposes rules governing personnel, practice, and teaching in registered Buddhist communities, examples of which include a BAC monopoly on issuing ordination licenses, the use of political criteria to judge ordination eligibility, prohibitions against certain traditional ordination rituals, restrictions on cross-provincial monastic study, restrictions on interactions with foreign Buddhists, requirements that prospective monastics receive parental and family approval before being ordained, and a prohibition against citizens under the age of 20 or over the age of 60 entering a monastic institution.[67]

Authorities in a number of localities continue to target unregistered Buddhist temples and lay communities for closure or demolition.[68] A 2008 report to the Daqing Municipal People's Congress in Heilongjiang province urged local officials to "strengthen strikes" against "unlawful religious activities," and expressed concern that "illegal Buddhist meetings have not stopped despite repeated attempts to ban them."[69] Officials also warned that some residents had opened their homes to "traveling monks and wild Buddhas" who gave unauthorized teachings and some of whom "spread feudal superstitions."[70] Party officials in Gansu province cautioned cadres against "indulging" or being "softhearted" toward those engaged in illegal religious activities and insisted that action must be taken to stop the "chaotic" construction of unauthorized Buddhist temples and sacred statues.[71] Official reports indicate that a concerted effort is underway to clamp down on unregistered Buddhist temples and meeting sites in Jiangxi province.[72] For example, officials in Jiangxi's Ningdu county authorized "special disciplinary work" in order to rein in unregistered Buddhist temples. As of December 2008, 25 unregistered temples had been forcibly merged, 68 had been forcibly closed, 56 had been forcibly converted to non-religious use, and 3 had been demolished as a result of the crackdown.[73] The government continues to enforce a ban against at least one Buddhist group that it has designated a "cult organization": a Taiwan-based sect known as the Quan Yin Method (Guanyin Famen).[74] The 6–10 Office, an extralegal Party-run security force that suppresses banned religious groups, has stepped up efforts in some provinces to gather intelligence on Guanyin Famen and curb its spread.[75] In June 2009, local media in Zhangye city, Gansu province, reported that authorities there detained six members of Guanyin Famen during the first six months of 2009.[76]

TIBETAN BUDDHISM

Chinese Government and Communist Party interference with the norms of Tibetan Buddhism and unremitting antagonism toward the Dalai Lama, key factors underlying the March 2008 eruption of Tibetan protest, continued to deepen Tibetan resentment and

fuel additional Tibetan protests during the Commission's 2009 reporting year. The government and Party used institutional, educational, legal, and propaganda channels to pressure Tibetan Buddhists to modify their religious views and aspirations. Officials adopted a more assertive tone in expressing determination to select the next Dalai Lama, and to pressure Tibetans living in China to accept only a Dalai Lama approved by the Chinese Government. Escalating government efforts to discredit the Dalai Lama and to transform Tibetan Buddhism into a doctrine that promotes government positions and policy have resulted instead in continuing Tibetan demands for freedom of religion and the Dalai Lama's return to Tibet. [For more information, see Section V—Tibet.]

CATHOLICISM

The government seeks to control Chinese Catholics through mandatory registration with the Catholic Patriotic Association (CPA), a state-controlled entity established to monitor and direct Catholic doctrines and practice and manage Catholic property and personnel. The CPA denies members of registered churches the freedom to pursue full communion and free communications with the Holy See and other Catholic institutions outside of China, and security forces regularly harass Catholics who resist CPA control. Since the 1950s, the government has prohibited traditional episcopal consecrations and insisted that the Holy See lacks authority to select Chinese bishops.[77] In 2009, the Commission observed ongoing harassment and detention of unregistered bishops, priests, and lay Catholics in China, as well as enduring tensions between the Holy See and the government over the scope of papal authority in China.

Controlling Catholics in Shaanxi and Hebei provinces

In the past year, authorities in Shaanxi and Hebei, the two provinces with the highest concentration of Catholics, have engaged in campaigns to suppress the activities of unregistered Catholics and to coerce unregistered clergy to accept CPA control over their communities.[78] An official report from the Web site of the Shaanxi Ethnic and Religious Affairs Commission in January 2009 outlines details of an ongoing crackdown that has led to the "dramatic weakening of underground Catholic forces." The report described the formation of a "Catholic work leading group" that had "effectively driven" the provincial effort to control Catholics in accordance with a nationwide campaign that began in 1999.[79] In the past decade, Shaanxi has "greatly strengthened the construction of patriotic organizations" and now counts 44 CPA branches throughout the province.[80] The Shaanxi report underscores the progress the government has achieved in suppressing unregistered Catholics through using coercive tactics:

> [We] have carried out comprehensive management of underground Catholic forces, and adopted measures to capture, beat, and suppress core members. We have forcefully struck against illegal activities, frightened core members of the underground forces, and driven a segment of the underground priests to experience a relatively significant ideological conversion, which has brought about obvious

> changes. In five parishes within our province that previously fell under the control or influence of underground forces, political power has been seized by the patriotic forces, 90 percent of Catholic laity has eventually taken the road of loving the motherland and loving the church, and the patriotic forces have been greatly strengthened.[81]

The Shaanxi report also indicates that some unregistered priests and bishops relented under sustained government pressure to undergo "transformation." One such crackdown reportedly yielded the "transformation" of 13 unregistered priests, and more than 10 other priests achieved "new heights of ideological awareness."[82] Shaanxi authorities also note that the "transformation through reeducation" of an unregistered bishop named Li Jingfeng was "still being handled," while the "illegal activities" of another bishop, Yu Chengti, had been "effectively contained."[83] Shaanxi authorities detained unregistered Bishop Wu Qinjing of the Zhouzhi diocese in March 2007, and his whereabouts still are unknown.[84] Foreign media and Chinese Government reports suggest that public security forces in Hebei province, in coordination with the CPA, have engaged in a multi-month campaign targeting unregistered priests and bishops in 2009 and stepped up "guidance work" for registered Catholic churches. At least one-quarter of China's Catholic population resides in Hebei, the "seat of the underground church."[85] On March 24, Hebei public security officials detained Ma Shengbao, an unregistered priest, and his current whereabouts remain unknown.[86] The campaign reportedly has resulted in the detention of 20 unregistered Catholic parishioners and 2 priests who organized demonstrations protesting the imprisonment of Bishop Yao Liang.[87] In December 2008, Chen Huixin, Hebei's top religious affairs official, warned local officials that their management of "churches controlled by the underground Catholic forces" had become "soft," "lenient," and "fallen short of the desired goal."[88] In response, Chen urged authorities to "strengthen management awareness, measures, and mechanisms."[89] In April 2009, Wang Xuhong, Secretary General of the Hebei United Front Work Department (UFWD), inspected registered Catholic churches and met with clergy in Wu'an city. While praising Catholics for various charity activities, Wang reminded clergy that "Catholicism surely must merge into society, conform to China's national conditions, and construct a harmonious church. Only in this way will Catholicism enjoy better development."[90] In October and November 2008, a series of Party meetings in Hebei concluded that authorities must "strengthen standard management of Catholic seminaries, monasteries, and nunneries."[91]

Harassment, detention, and "transformation"

Chinese Catholics who express their faithfulness to the Holy See by refusing to join the state-controlled church, as well as those affiliated with registered parishes that run afoul of the Communist Party's policies, remain subject to harassment, arbitrary detention, and imprisonment. Unregistered bishops are particularly vulnerable to government persecution. In 2009, at least 40 unregistered Chinese bishops were either detained, under home confinement, under surveillance, in hiding, or had disappeared under suspicious

circumstances.[92] The government has provided no information about the condition or whereabouts of some unregistered bishops whom it has detained for years, such as Su Zhimin and Shi Enxiang.[93] In March 2009, security officials forcibly removed Bishop Jia Zhiguo from his living quarters and took him to an undisclosed detention facility.[94] Bishop Jia, the 74-year-old unregistered bishop of Hebei province's Zhengding diocese, previously served two decades in prison, and since 2003, authorities have detained him numerous times and kept him under strict surveillance when not detaining him.[95] Authorities also took into custody Father Paul Ma, a 55-year-old priest from a nearby Catholic village called Donglu, for celebrating the Eucharist with unregistered Catholics.[96] The mayor of Xiangong township in Shaanxi province invited Father Gao Jianli, a priest from the Fengxiang county diocese, to a meeting at his office in March 2009 to discuss a land dispute involving confiscated church property.[97] When the priest arrived at the mayor's office, two men locked him in the office and beat him to the point that he required hospitalization.[98]

In the past year, government officials continued to disrupt and obstruct pilgrimage to the Sheshan Marian shrine in Shanghai. In December 2008, the Longwan District Party Committee in Wenzhou city, Zhejiang province, reported that the religious affairs bureau had established a "special work group" for monitoring Catholics and maintaining "stability and control" during the May pilgrimage season.[99] The Longwan report indicates that authorities "diverted 108 pilgrims through persuasion," "dispersed" 20 others, and "dissuaded" 247 from undertaking the pilgrimage.[100] Zhang Jianlin and Zhang Li, two priests who were taken into custody in Hebei province as they traveled to Sheshan in May 2008, are believed to remain in detention more than a year later.[101]

In 2008 and 2009, Party and government authorities continued to characterize unregistered Catholics as a threat to "social stability," and in some cases, called for security officials to "strike against" and "transform" unregistered communities.[102] In September 2008, an official report from Fuzhou city, Jiangxi province, emphasized the need to "transform" and "expand the patriotism" of "underground Catholic forces" as a top priority for the Party's United Front Work Department (UFWD).[103] The Fuzhou report describes "underground Catholic forces" as exerting a "severe negative impact on social stability."[104] An April 2009 report from the head of the Jiangxi Ethnic and Religious Affairs Bureau makes clear that Fuzhou city is representative of a larger phenomenon, noting that authorities "have continually launched transformation through reeducation of underground Catholic forces for many years throughout the province."[105] Also in April, Dalian Medical University posted a notice from the Liaoning provincial UFWD calling for authorities to "aggressively launch transformation through reeducation of underground Catholic forces."[106] In 2008, a county UFWD office in Wenzhou city, Zhejiang province, was given an award for "striking against . . . underground Catholic forces" and "steadily pushing forward with transformation through reeducation."[107] In Henan province, the Sheqi county UFWD's tasks for 2009 included "transformation through reeducation of underground Catholic

forces" and increasing local security to prevent "infiltration by foreign religious forces."[108]

Intelligence gathering and surveillance of Catholic communities is widespread in China. Many Chinese Catholics report that government agents have infiltrated both unregistered and Catholic Patriotic Association (CPA) churches, and that they attempt to foment internal strife as a means of inhibiting Church unity and growth.[109] In December 2008, the Ministry of Public Security posted a "heroic life story" of an officer in Chongqing municipality named Wang Shuncai who was lauded for "throwing himself into the task" of penetrating and spying on religious groups.[110] Wang was recognized for "capturing" an important unregistered bishop three times and contributing to his eventual "transformation through reeducation."[111] Wang conducted undercover stings against religious groups in at least six districts in Chongqing and traveled to Yunnan and Guizhou provinces to work on similar cases. Wang is also credited with having cracked three significant cases by "directing secret forces" that gathered "behind the scenes, early warning intelligence."[112] In April 2009, the aforementioned Sheqi county report instructs UFWD cadres to carry out intelligence activities against unregistered Catholics in order to "get a clear idea of the situation and ferret out the truth."[113]

Bishop appointments, relations with Rome, politicizing Catholic faith

The state-controlled Catholic Patriotic Association (CPA) exercises control over bishop ordination for the registered Chinese Catholic church, including through coercion of bishops to officiate ordinations.[114] In recent years, the government has tolerated discreet papal involvement in the selection of some bishops, but without changing its insistence that the Chinese church must be "independent, autonomous, and self-managed."[115] In December 2008, the CPA co-hosted a celebration to commemorate 50 years of "self-elected, self-ordained" bishops, which featured a speech by Du Qinglin, the head of the Party Central Committee's UFWD.[116] Du stressed that "insisting on running the affairs of the church in an independent way is an inevitable path for the Chinese Catholic Church to adapt itself to socialist society," and reminded CPA officials that it is "necessary to put the scientific development concept in command of religious affairs" and "work hard to stimulate the patriotism of religious personages and believers."[117] Some CPA-registered bishops who received tacit papal approval are under increased government pressure to publicly support the Party's policies. Bishop Li Shan of the registered Beijing diocese, who was previously friendly toward the unregistered church and faithful to the Pope, has incorporated CPA policy slogans such as "loving the motherland, loving the Church" and warnings against infiltration by "foreign states" in speeches following his September 2007 ordination.[118] Bishop Li reportedly expressed regret for these speeches, one of which was given under conditions of duress in front of top Chinese Government and Communist Party officials on Christmas Eve 2008.[119] In 2009, Pope Benedict XVI reiterated his call for reconciliation between unregistered and registered Chinese Catholic bishops, and the Chinese Government continued a decade-long pat-

tern of acting to undermine reconciliation that does not occur on CPA-dictated terms.[120] The detention of unregistered Bishop Jia Zhiguo in March reportedly was linked to the CPA's displeasure at a Vatican-brokered reconciliation agreement between Bishop Jia and Jiang Taoran, the bishop of the registered Shijiazhuang diocese.[121] Authorities in Shaanxi province also described cooperation between CPA bishop Yu Runchen and unregistered bishop Yu Chengti as an "intensification of foreign infiltration" that played a role in the "ideological backsliding" of some clergy.[122] No papal involvement in bishop selection occurred during the Commission's 2009 reporting year and no progress was made toward establishing formal diplomatic relations between the PRC and the Vatican.

FALUN GONG

Since July 1999, the Chinese Government and Communist Party have designated Falun Gong an illegal "cult organization" and implemented a "strike hard" campaign of suppression against it—the scope and intensity of which have been unrivaled in the seven years since the Commission began its work. 2009 marked the 10th anniversary of the government's formal ban on Falun Gong, a spiritual movement based on the teachings of its founder, Li Hongzhi, and Chinese meditative exercises called *qigong*. Viewing the 10th anniversary as sensitive, the central government held fast in 2009 with its 2008 pre-Olympics efforts to ferret out and punish Falun Gong practitioners. Authorities conducted propaganda campaigns that deride Falun Gong, carried out strict surveillance of practitioners, detained and imprisoned large numbers of practitioners, and subjected some who refuse to disavow Falun Gong to torture and other abuses in reeducation through labor facilities. International media and Falun Gong sources also reported deaths of practitioners in Chinese police custody in 2008 and 2009.

"Strike hard" directives and "sensitive" anniversaries

The high priority that Party leaders place on the "struggle" against Falun Gong was demonstrated by its inclusion as a principal target for a "strike hard" campaign in a directive that set the agenda for public security bureaus (PSB) nationwide this year.[123] In February 2009, the Central Committee on the Comprehensive Management of Public Security circulated a directive that urged PSB forces to "closely watch out for and strike hard against . . . infiltration, subversion, and sabotage by 'Falun Gong.'"[124] In November 2008, the People's Daily reported that the Communist Party Secretary of Weifang municipality in Shandong province—a city where police tortured at least 12 Falun Gong practitioners to death in 2000 and where more than 60,000 were estimated to reside before the ban[125]—urged Party cadres not to relent in the crackdown: "we must not loosen our hold on the struggle with 'Falun Gong' in the slightest way. [Officials] at all levels must firmly grasp the objectives, go a step further to intensify measures, increase the force . . . make great efforts to carry out deep strikes against 'Falun Gong' . . . [and] maintain a state of high pressure from the beginning to end."[126] In May 2009, Gaoyou city in Jiangsu province issued an "implementation plan" that aimed to "raise the people's understanding and support for the work of dis-

posing of the 'Falun Gong' problem . . . [in order to] resolutely stop the spread of 'Falun Gong.'" [127] A lecturer at the Jilin Provincial Public Security Bureau Academy recently described the "anti-cult struggle" as an "unrelenting protracted war," and reiterated the government's "determination" to "thoroughly eliminate the cult cancer." [128] The Wanquan County PSB in Hubei province reported plans in May to "forcefully strike against 'Falun Gong' diehard elements" by "strengthening patrols, forming a tight network of control, obtaining deep, behind-the-scenes intelligence, and getting to the point that we know when the enemy will move, before the enemy can move." [129]

Chinese authorities placed the anti-Falun Gong campaign prominently on the agenda of a special public security taskforce called "Project 6521," which reportedly was established to maintain "social stability" during four sensitive anniversaries in 2009, including the 10th anniversary of the April 25 Falun Gong silent demonstration near the Party leadership compound in Beijing.[130] District officials in Guiyang city, Guizhou province, reported on "deployment arrangements" taken to implement two "monitoring and control measures" during the 10th anniversary of the April 25 Falun Gong protest: (1) "take strict precautions to prevent 'Falun Gong' from conducting illegal activities and putting up posters and distributing propaganda materials"; and (2) "local police stations, community neighborhood committees, and public work units must strengthen efforts to root out and strike against Falun Gong . . . and in a fundamental way, eliminate hidden dangers." [131] In Shanghai's Nanhui district, Party officials called an "emergency meeting" to focus on the "April 25 period," urging police and government officials to "sharpen their vigilance" and "strengthen coordinated warfare" against Falun Gong.[132] In Tianjin municipality, officials increased police patrols and intelligence gathering focused on Falun Gong practitioners during the 20th anniversary of the violent suppression of the 1989 Tiananmen protests.[133]

The 6–10 office

In the past year, the 6–10 Office—an extralegal, Party-run security apparatus created in June 1999 to implement the ban against Falun Gong—continued to consolidate its central role in all aspects of the nationwide "anti-cult" campaign. A June 2009 official report from Henan province summarizes the role of the Chenxi County 6–10 Office as "taking charge of the supervision, inspection, direction, coordination, and implementation of the entire county's anti-cult work." [134] The duties of the secretariat of the 6–10 Office include "taking responsibility for protecting secrets" and "supervising and solving special investigations and coordinating the work of striking against and disposing of [Falun Gong]." [135] In December 2008, Li Xiaodong, the head of the central 6–10 Office, visited Siyang county in Jiangsu province for an inspection and told local officials: "As for the cult problem, the Ethnic and Religious Affairs Bureau must vigorously cooperate with judicial offices in conducting strikes; as soon as you discover a group, simply attack it, as soon as it shows its head, hit it right away, you must never be softhearted." [136] The 6–10 Office in Jiangsu's Suzhou city conducted "spot checks" in December on community and school "no-cult" projects in the Canglang

district.[137] Officials noted how the Canglang Party Committee and government "attach a high degree of importance" to the 6–10 Office's work and that it had received a "full guarantee" of funding and personnel.[138]

The 6–10 Office and public security bureaus throughout China surveilled and monitored communities, residences, and workplaces in order to identify and isolate Falun Gong adherents. In May 2009, the Qidong city 6–10 Office in Jiangsu province conducted an "investigation to get to the bottom of the situation involving cults," which identified 176 Falun Gong practitioners living in one township.[139] In October 2008, Linxiang city in Hunan province gave credit to its "24-hour control and monitoring line of vision" for allowing authorities to "thoroughly suppress" two Falun Gong incidents.[140] In June 2008, Xuanwei city authorities in Yunnan province called for strengthened patrols, greater use of plainclothes officers, and closer cooperation between public security forces and residential committees in order to "thoroughly shatter" Falun Gong.[141] Xuanwei authorities also authorized a "powerful political offensive" in all villages and neighborhoods involving mandatory resident participation in a propaganda campaign to "effectively frighten" Falun Gong.[142] In Shandong province's Huimin county, a 2008 workplan for "implementing concentrated rectification" of Falun Gong requires various agencies to investigate all religious personnel within their jurisdiction for involvement with "cult organizations."[143] In March 2009, the head of the Shashi District 6–10 Office in Jingzhou city, Hubei province, during an inspection of sub-district offices, called on officials to "reinforce monitoring and control of 'Falun Gong' practitioners."[144] In June 2009, Jiujiang city officials in Jiangxi province described a surveillance system focused on a group of 829 "key figures," composed primarily of former Falun Gong prisoners.[145] In July, authorities in Shandong province's Zibo city placed nine practitioners under a "system of 24-hour monitoring and control."[146]

Identification and monitoring of Falun Gong practitioners is also accomplished through the 6–10 Office's cultivation of paid informants. The aforementioned circular from Xuanwei city offered a reward of 10,000 yuan (US$1,464) for each Falun Gong practitioner who is captured distributing "reactionary propaganda" and 5,000 yuan (US$732) for informants who "provide clues to crack a case."[147] In March 2009, Linzi district in Shandong's Zibo city unveiled a reward system for citizen reports of Falun Gong activities.[148] The 6–10 Office in Liuyang, a county-level city under Hunan province's Changsha municipality, launched a 24-hour hotline for informants in March and announced rewards of between 50 and 1,000 yuan (US$7 and US$146).[149] In April 2009, the Liuyang 6–10 Office issued an open letter that called for residents to "resolutely resist cults" and promised an "appropriate material reward" to those who "courageously report cult behavior."[150] The Wangcang County Communist Party Committee and government in Sichuan province issued a joint letter in April to rural residents that outlined the "severe danger" posed by Falun Gong, provided residents with a "cult" hotline, and guaranteed rewards for informants.[151] Authorities in Anhui province's Bengbu city credited an informant's call for facilitating the capture of a 50-year-old disabled Falun

Gong practitioner named Yu Xiaoping who was distributing leaflets.[152]

The 6–10 Office focuses on public schools and universities as venues for spreading its "anti-cult" message. In May 2009, the Xinjiang Agricultural University initiated a 10-month campaign to "build a durable ideological line of defense" to "guard against and resist" possible "sabotage and infiltration" by Falun Gong.[153] In June, students and teachers from middle schools all across Panji district in Anhui's Huainan city participated in a "surge of anti-cult education" that "raised their political consciousness."[154] In July, elementary school students in Leshan city, Sichuan province, attended a "lively" speech from the local Party secretary and viewed an "anti-cult warning film." The principal instructed students to study "anti-cult" materials during the summer, take notes or write a comic book to illustrate lessons learned, and return a form with a parent's signature to verify completion of the assignment.[155]

Detention, abuse, and death in custody

Chinese authorities continue to employ an extrajudicial system of incarceration known as "reeducation through labor" (RTL) to punish multitudes of Falun Gong practitioners. Public security officials may order citizens who are suspected of minor criminal or political offenses to serve up to three years of RTL without establishing their guilt before a court.[156] According to one scholar, authorities have "maximized" the RTL system as an "instrument for political control" over Falun Gong.[157] In 2008, the Beijing Women's RTL Center reportedly held 700 Falun Gong practitioners compared to only 140 prisoners accused of other crimes.[158] In February 2009, more than half of 13 former RTL inmates interviewed for one study—none of whom were practitioners—noted that Falun Gong constituted one of the largest groups of RTL prisoners and that they are singled out for harsh treatment.[159]

As security intensified ahead of the 10th anniversary of the ban, the "strike hard" campaign resulted in widespread detentions and imprisonment of Falun Gong practitioners. In the first half of 2008, Harbin municipality authorities in Heilongjiang province placed 53 Falun Gong practitioners in criminal detention, 23 in administrative detention, formally arrested 23, and ordered 19 to serve RTL.[160] In November 2008, Nanning municipality authorities in the Guangxi Zhuang Autonomous Region reported that they had taken 36 Falun Gong practitioners into custody, formally arrested 10, held 15 in administrative detention, and sent 3 to RTL.[161] In December 2008, authorities in Pingjiang county, Hunan province, detained two Falun Gong "core elements" and "destroyed" an underground printing operation as part of a workplan to "ruthlessly strike against" Falun Gong.[162] In February 2009, Dazhou municipality in Sichuan province disclosed that public security officials had detained 114 practitioners and "destroyed" 11 Falun Gong "gangs" and 17 "underground nests" in three years.[163] Huai'an city officials in Jiangsu province noted that they had "cracked" more than 20 cases in the first half of 2009 that resulted in Falun Gong detentions.[164]

In addition to forced labor, RTL for Falun Gong practitioners involves a process known as "transformation" whereby they are sub-

jected to various methods of physical and psychological coercion until they recant belief in Falun Gong.[165] In January 2009, Sichuan Provincial Party leaders inspected the Xinhua RTL center where 42 male Falun Gong practitioners were detained. RTL authorities told Party leaders that their "unique model of transformation" had recently succeeded in reforming a group of "die-hard" practitioners.[166] In June 2009, the Inner Mongolia Autonomous Region Justice Bureau described the Hohhot Women's RTL Center as a "main battlefield" in the "struggle" against Falun Gong, where a total of 518 practitioners had been "transformed."[167] The Assistant Director of the Jiangxi Provincial RTL Management Bureau pressed his subordinates to "increase awareness of the importance of this particular year to our transformation work and understand the urgency of overcoming the current low rate of transformation."[168] In July 2009, Party leaders in Heilongjiang's Tailai county redoubled their efforts to "transform" one local practitioner who was reportedly the sole holdout among 212 others who had already "thoroughly transformed."[169]

Cases of torture and death of Falun Gong practitioners in official custody, both confirmed and alleged, continued to surface in the past year. Amnesty International reported that over 100 practitioners died in detention or shortly after release in 2008 as a result of torture or other forms of mistreatment.[170] In February 2008, a popular musician and Falun Gong practitioner named Yu Zhou died in Beijing police custody 11 days after he and his wife were detained. Authorities refused to allow an autopsy and Yu's family suspects that he was beaten to death.[171] In March 2009, a public security officer at the Shibei District Liaoyuan Road PSB station in Qingdao reportedly beat Lu Xueqin, a Falun Gong practitioner, for nine days until she was permanently paralyzed from the waist down.[172] In July 2009, a 45-year-old practitioner named Yang Guiquan was reportedly declared dead upon arrival at the Fuxin City Mining Corporation General Hospital in Liaoning province after being held for 16 days by police and reportedly beaten with electric batons and force-fed.[173]

Harassment of attorneys, court irregularities, coerced confessions

In the past year, security officials in southwest China reportedly assaulted attorneys who attempted to defend Falun Gong clients facing charges in China's judicial system. On April 13, 2009, public security agents in the capital of Sichuan province intercepted and beat Beijing-based lawyer Cheng Hai as he was traveling to meet the mother of a Falun Gong client. The agents reportedly kicked and punched Cheng for agreeing to defend Tao Yuan, a Falun Gong practitioner who was seeking medical parole from Chengdu municipality's Hanyuan Prison.[174] On May 13, 2009, more than 20 officers from the Jiangjin District Public Security Bureau (PSB) in Chongqing municipality reportedly physically assaulted attorneys Li Chunfu and Zhang Kai at the home of Jiang Xiqing, a Falun Gong practitioner whose death in custody they were investigating.[175] Officers took Li and Zhang to the PSB where they hung them inside iron cages, interrogated, and beat them. Police reportedly told Li and Zhang that "you absolutely cannot defend Falun Gong; this is the situation in China."[176]

The Chinese Government's harsh treatment of lawyers who defend Falun Gong has been most severe in the case of Gao Zhisheng, a prominent human rights attorney who was last seen being forcibly taken from his hometown by public security officials on February 4, 2009.[177] When public security officials abducted Gao in September 2007, Gao was tortured in a secret location outside Beijing for more than 50 days.[178] Gao's account of the abduction describes how he was repeatedly struck with electric batons all over his body, including his genitals, and subjected to other forms of torture. Gao recounts how his tormentors admitted that Falun Gong practitioners were indeed tortured as Gao had previously alleged: "you are not incorrect in saying that we torture Falun Gong followers. That's right, we do. The 12 courses we're serving you were perfected on the Falun Gong followers."[179] Gao was also warned that he would be killed if he told anyone about being abducted and tortured.[180] He has not been seen since February. [See Section II—Criminal Justice—The Disappearance of Gao Zhisheng.]

In 2009, authorities in northeastern China reportedly detained at least four attorneys on account of their defense of Falun Gong clients. In Harbin city, the capital of Heilongjiang province, authorities detained attorney Wei Liangyue and his wife in February. Public security officials reportedly ordered Wei to serve one and one-half years of reeducation through labor for meeting with Falun Gong practitioners, which they described as "gathering a crowd to disturb social order."[181] In July 2009, security officials abducted two lawyers from Shandong province because of their involvement in Falun Gong cases. On July 2, Jinan city officials detained Liu Ruping outside of his residence and took him to an undisclosed detention facility. Six days later, police in Pingdu city reportedly detained Wang Ping, an attorney with the Tianzhenping Law Firm.[182] On July 4, plainclothes officers raided the home of Wang Yonghang, a lawyer in Dalian city, Liaoning province. Police detained both Wang and his wife, and while she was released, Wang remains in custody.[183]

In cases where authorities did not physically assault or detain attorneys who defend Falun Gong, officials often harassed and intimidated them. The government sought to silence Chinese human rights lawyers, many of whom have defended Falun Gong practitioners, by threatening de facto disbarment through the refusal to renew their licenses to practice. In May 2009, authorities contacted senior partners at nine law firms and demanded that they refrain from submitting license renewal applications for certain attorneys or deliberately submit incomplete applications that could be turned down on technical grounds.[184] In four cases, authorities advised that certain lawyers should receive poor marks in their annual performance evaluations, which would be used as a pretense to disbar them.[185] As of early September 2009, the government has used the normally routine process of "annual assessment and registration" to revoke the licenses of at least 21 rights lawyers.[186] The government also obstructed Falun Gong practitioners' access to legal defense when it forced the Beijing Yitong Law Firm to close for six months in March 2009, largely on account of its role in human rights cases, including on behalf of Falun Gong practitioners.[187] [For more information, see Section III—Access to Justice.]

In the past year, trials of Falun Gong practitioners continued to display procedural irregularities and violations, while justice bureaus took actions that subverted ordinary legal protections. In October 2008, the Wuhou District People's Court in Chengdu, the capital of Sichuan province, sentenced 11 Falun Gong practitioners to between three and seven years in prison. The court reportedly barred family members from attending the trial and prohibited the defendants' lawyers from speaking.[188] More than 15 lawyers joined together to appeal the ruling, but the appeals court attempted to obstruct their access to court records.[189] The Harbin Municipal Justice Bureau issued a directive in October requiring attorneys who defend Falun Gong practitioners to report to and receive pretrial "guidance" from the government-controlled lawyers association.[190] In January 2009, lawyers for two practitioners on trial at the Shashi District People's Court in Jingzhou city, Hubei province, alleged that torture was used to extort the defendants' confessions and complained that the court repeatedly interrupted the defense counsel's statements and prevented them from finishing questioning.[191] In February 2009, the Shenyang Municipal Justice Bureau in Liaoning province ordered several attorneys who had prepared a not-guilty defense on behalf of six Falun Gong practitioners to either withdraw from the case or cooperate with authorities, and threatened to not renew their licenses if they failed to comply.[192] In March, during the trial of 12 practitioners in the Shibei District People's Court in Qingdao city, Shandong province, the defendants' counsel objected to the court proceedings because of unlawful procedural violations committed by the court and procuratorate, and alleged that authorities used torture to extort confessions from defendants.[193]

The Party's 6–10 Office reportedly has interfered in the adjudication of Falun Gong cases. In November 2008, defense lawyers for two practitioners on trial at the Jiguan District People's Court in Jixi city, Heilongjiang province, challenged the court's independence when the presiding judge was seen meeting with 6–10 Office agents during a court recess.[194] In February 2009, the Xi'an District People's Court in Liaoyuan city, Jilin province, reported that when preparing for a trial involving Falun Gong and other "cult organizations," the court must first "petition" the municipal 6–10 Office, and only after receiving an affirmative response is the court then permitted to hear the case.[195] A document that appears to be a "secret" directive dated February 10, 2009, from the 6–10 Office in Shenyang city, the capital of Liaoning province, surfaced on a U.S.-based Chinese-language news Web site in March. Among other things, the directive mandates that the 6–10 Office should "dispatch personnel to audit court proceedings of 'Falun Gong' cases and assist with managing sudden incidents."[196]

ISLAM

Conditions for religious freedom for Muslims in the Xinjiang Uyghur Autonomous Region (XUAR) deteriorated in the past year, and authorities maintained tight controls over the practice of Islam across China. Muslims throughout China faced state controls over activities including the interpretation of theology, the content of sermons, the training of religious leaders, and the freedom to make

overseas pilgrimages.[197] Inside the XUAR, religious repression increased as authorities implemented harsher controls over religion as part of broader efforts in the XUAR to strengthen security and guard against perceived threats to stability. [See Islam in the Xinjiang Uyghur Autonomous Region in this section and Section IV—Xinjiang for more information.]

Authorities continued efforts to align aspects of Islamic practice in China to government and Communist Party policy. An official from the Islamic Association of China (IAC), the state-controlled organization that, along with local branches, controls Islamic practice in China, reported in December 2008 that the IAC had begun to establish a corps of liaisons within each province to deal with matters involving the interpretation of religious texts,[198] a measure which builds on longstanding IAC work to compile sermons and religious texts consistent with government policy.[199] A May 2009 report on an IAC Standing Committee meeting described plans to launch activities in 2009 to promote the "establishment of harmonious mosques," in order for Muslim circles to "better improve their quality" and contribute to political objectives including China's economic and social development.[200] Authorities expressed concern about aspects of Islamic practice deemed incompatible with government and Party goals. A government report from Qinghai province expressed concern that some people with "backward, conservative religious viewpoints" were challenging the authority of the democratic management committees formed within registered mosques.[201] Muslim religious leaders throughout China remained subject to government- and Party-led political training classes.[202] For example, in April 2009, a district in Beijing described enhancing efforts to train young Muslim religious leaders to build a "politically reliable" corps of such leaders.[203] In the aftermath of the forceful police suppression of a demonstration held by Uyghurs in the XUAR capital of Urumqi on July 5, and outbreaks of violence in the region starting that day—events Chinese authorities cast as a "riot" and blamed on U.S.-based Uyghur rights advocate Rebiya Kadeer and the "three forces" of terrorism, separatism, and religious extremism[204]—Islamic associations in China reported spreading Party policy on the incidents.[205] [See Section IV—Xinjiang, for more information on the July 5 demonstration and related events.]

Chinese authorities continued to maintain restrictions on Muslims' freedom to carry out pilgrimages to Mecca, Saudi Arabia. Authorities allow Muslims to undertake trips only under the auspices of official groups that impose political requirements on participants.[206] An official from the IAC said that the IAC had made progress in curbing unauthorized pilgrimages in 2008.[207] [See below for details on pilgrimage restrictions in the XUAR.]

Islam in the Xinjiang Uyghur Autonomous Region

Conditions for religious freedom for Muslims in the Xinjiang Uyghur Autonomous Region (XUAR) deteriorated in the past year. Authorities continued to identify "religious extremism" and "illegal religious activity" as key threats to stability[208] and took measures to further restrict Islamic religious practice in the region. Government authorities defined "religious extremism" and "illegal religious activity" to encompass religious practices, group affiliations,

and viewpoints protected under international human rights guarantees for freedom of religion, expression, and association that the Chinese Government is bound to uphold.[209] Authorities tightened controls over Islam as part of broader campaigns in the XUAR in the past year to strengthen security and guard against perceived threats to stability. The suppressed demonstration held by Uyghurs in the XUAR capital of Urumqi on July 5, 2009, violence in the region starting that day, and heavy security measures in the region, drew an international spotlight on longstanding government repression in the region, including controls over religion. Prior to the July 5 demonstration, however, human rights conditions in the region, including conditions for religious freedom, had already declined throughout the year, maintaining a trend in worsening conditions documented by the Commission in its 2008 Annual Report. [See Section IV—Xinjiang, for more information.]

Tightened controls over Islam in the XUAR

Policy statements in late 2008 and 2009 from the XUAR government and Communist Party indicated that heightened controls over religion, along with other controls implemented in the XUAR earlier in 2008, would remain an enduring feature within the region and would be further strengthened. In a major speech in September 2008, XUAR government chairperson Nur Bekri outlined increased measures to "strike hard" against perceived threats in the region including "illegal religious activity" and "religious extremism."[210] He called for "increasing the strength of punishment for illegal religious activities and curbing, in accordance with law, underground activities to teach religion and sermonize."[211] He added that "we must never allow fanatic religious ideas to gain ground, nor must we allow religious extremist forces to flourish and see success."[212] In March 2009, Nur Bekri stated that the region's battle against separatism would be "more severe, the task more strenuous, and the conditions for battle more intense," attributing security threats to "Western hostile forces" and to the "three forces" of terrorism, separatism, and religious extremism.[213] Authorities pledged tighter security measures and carried out additional security controls in the aftermath of the July 5 demonstration and outbreaks of violence in the region starting that day. [See Section IV—Xinjiang for additional information.]

Authorities at various levels of government in the XUAR reported throughout the year on taking steps to tighten controls over religion and punish "illegal religious activity," singling out aspects of Muslim identity and practice in particular.[214] Authorities integrated controls over Islam into wide-scale anti-separatism ideological campaigns launched throughout the region.[215] In October 2008, XUAR Communist Party Committee Standing Committee member Shawket Imin called on Party cadres from the United Front Work Department to take measures including strengthening "leadership" and "education" of religious people, strengthening cultivation and training of religious leaders, and curbing unauthorized religious pilgrimages and "illegal religious activities."[216] Steps at the local level include:

- In February 2009, the Hoten district government announced plans to implement a series of measures to deal with "illegal

religious activity," including by strengthening capacity to "investigate" and "ferret out" "illegal" activity, strengthening oversight of students during vacation periods, and holding open trials to punish "illegal religious activity" and demonstrate its consequences to the public.[217]

- The same month, an official in Shache (Yeken, Yarkand) county, Kashgar district, outlined measures to deal with "outstanding" problems including the discovery of unauthorized religious classes, "illegal religious activity" extending across multiple localities, and "inadequate enthusiasm" among some religious figures toward contributing to the development of the rural economy.[218]
- Authorities in Yining (Ghulja) city, Ili Kazakh Autonomous Prefecture, carried out propaganda education activities to "weaken religious consciousness and uphold a civilized and healthy life" among ethnic minority women, young adults, and juveniles.[219]
- A March report on steps to expand intelligence information networks in Awat county, Aqsu district, described mobilizing religious leaders and other groups to enhance intelligence collection efforts. According to the report, as a result of intelligence leads, authorities prosecuted cases of underground sermonizing, investigated instances of suspected participation in "illegal religious activity," and stopped one case of "religious interference into matrimony."[220]
- Authorities temporarily detained and fined a group of several hundred Uyghurs for worshiping at a shrine outside their home village in March, on the grounds that the gathering constituted illegal "cross-village worship," according to information from worshipers and officials provided to Radio Free Asia (RFA).[221]
- The Uyghur American Association, drawing on Chinese and other sources, reported on security campaigns in spring 2009 in Kashgar and Hoten districts, including security sweeps and wide-scale detentions, that targeted acts including "illegal religious activity."[222]
- In June, RFA reported that in March 2009, the Ili Intermediate People's Court in the Ili Kazakh Autonomous Prefecture gave prison sentences ranging from three years to life to 12 men charged with "splittism."[223] The charges were connected to their activities teaching religion to children, according to the father of one of the men.[224] [See box titled Religious Prisoners below for more details.]

The Commission found several reports indicating government and Party oversight of the religious practices and traditions of Muslim women, including women who play a prominent role in funeral rites and other religious practices. Reports of efforts to investigate or reduce the wearing of head scarves and alter women's clothing habits continued in this reporting year.[225] For example, a report from Toqsu county, Aqsu district, describing "outstanding problems" in "bizarre" women's apparel, said that an expert invited by the Party-controlled XUAR Women's Federation provided a "correct interpretation" of the Quran's views toward women's clothes.[226] In the past year, an official from the XUAR Women's

Federation proposed bringing female religious figures (known as *büwi* in Uyghur) who have played a prominent role in practices including funeral rites under greater government control.[227] In 2009, at least two local governments in the XUAR reported on measures to train or regulate the activities of *büwi.*[228]

Authorities in the XUAR continued to take steps to prevent Muslims from making independent religious pilgrimages abroad, while restricting the number of people on official trips and subjecting them to tight oversight.[229] For example, government officials in Huocheng (Qorghas) county, Ili Kazakh Autonomous Prefecture, reported requiring pilgrimage participants to sign a contract agreeing not to do such things as bring on pilgrimage religious garments that "are not in accordance with the traditional social customs and habits of China's ethnic minorities," including certain types of women's veils.[230] The Wensu (Onsu) county government in Aqsu district reported taking steps to monitor returnees from pilgrimages in order to "place them in the 'line of vision' of the government and Party committee" and "understand" the activities they participated in while abroad.[231] Overseas sources continued to carry reports that authorities confiscate Uyghurs' passports in an effort to curb unauthorized pilgrimages and that authorities create barriers to participating in official pilgrimages.[232]

As the Commission has tracked in recent years, authorities also restrict Muslims' freedom to observe Ramadan. Authorities have placed curbs on students' and teachers' observance of the holiday, for example, and have ordered restaurants to remain open during the month-long period of daily fasting.[233] News of Ramadan restrictions continued in 2009, including reported restrictions on government workers' observance of the holiday and measures to make restaurants stay open.[234] In response to an August report on the restrictions, a XUAR government spokesperson denied that authorities forced government employees to eat during fasting periods and was paraphrased as saying "[t]he government has never intervened with Uygurs' religious activities[.]"[235]

Political training for Muslim leaders in the XUAR

The XUAR government launched wide-scale political training for Muslim leaders in the past year. In a September 2008 speech (discussed above), XUAR government chairperson Nur Bekri described plans to carry out a third cycle of training for Muslim religious personnel,[236] which was later reported to be launched in February 2009.[237] According to Nur Bekri, the training will reach 29,000 religious figures between 2009 and 2012.[238] In his September speech, Nur Bekri said, "We should always step up the ideological development of patriotic religious personages and the building of their ranks as the key link to be grasped in our religious work."[239] In February 2009, an official in Shache (Yeken, Yarkand) county, Kashgar district, described plans to expel religious leaders if they missed three political study sessions.[240] In the aftermath of the July 5 demonstration and outbreaks of violence in the region starting that day, XUAR Communist Party Committee Standing Committee member Shawket Imin called on religious leaders to strengthen their political consciousness and outlined restrictions on their behavior and activities.[241]

Controls over religious expression in the XUAR

Authorities in the XUAR continued in the past year to censor and confiscate religious publications. In 2008, XUAR authorities made "illegal" political and religious publications the focal point for that year's campaign to "Sweep Away Pornography and Strike Down Illegal Publications," and in 2009, authorities reported on the continuation of censorship campaigns that included focus on "illegal" religious and political publications.[242] A district in Qaramay municipality reported in November 2008 that the municipal government had issued a "notice on confiscating Muslim books such as 'The Truth About the Holy Teachings' and 'The Call to Orthodoxy,'" and that authorities had investigated local book and music sellers in accordance with the notice.[243] Authorities in Urumqi and in Hoten district reported confiscating "illegal" religious materials, including "illegal religious pictures" in Urumqi, as part of campaigns there to inspect cultural markets and curb "illegal" religious activity, respectively.[244] In March 2009, official media reported that XUAR authorities would coordinate with propaganda departments from provincial-level areas including Gansu, Qinghai, and Shaanxi provinces and the Ningxia Hui Autonomous Region to establish a cross-provincial mechanism to stop the printing and sales of "illegal" religious material. Media also reported that authorities established a fund to reward efforts to "purify" the cultural market, with focus on "illegal" religious and political publications.[245] Authorities also continued to regulate religious speech by controlling the content of religious publications, including sermons, and by directing interpretations of religious doctrine.[246]

Controls over children's freedom of religion in the XUAR

The XUAR government took steps in the past year to strengthen formal legal prohibitions over children's freedom of religion. In June, the XUAR government deliberated over a draft regulation on the protection of minors that would strengthen curbs over children's right to practice a religion and receive religious instruction.[247] The draft regulation would replace 1993 legal measures in force in the XUAR that already include the harshest legal restrictions in the country on children's freedom of religion.[248] According to a description of the 2009 draft regulation, it retains the prohibition that parents or guardians may not permit minors to participate in religious activities and adds that minors "seduced into" or "forced" to participate in religious activities can seek protection from schools or government offices including public security offices. Under the draft regulation, organizations approached for help must not shirk their duties and must intervene promptly.[249]

In addition to restrictions in law, authorities within the XUAR also implemented steps in practice to restrict children's freedom of religion. As part of measures to deal with "illegal religious activity" in Hoten district implemented in spring 2009, authorities outlined measures to strengthen oversight of students during their school vacation period through a system of both fixed and unscheduled contact with them.[250] In February, authorities in Yining (Ghulja) city, Ili Kazakh Autonomous Prefecture, targeted ethnic minority women, young adults, and juveniles for propaganda education activities to "weaken religious consciousness and uphold a civilized

and healthy life."[251] A township in Bachu (Maralbéshi) county, Kashgar district, described promoting education in topics including atheism as part of the local school system's fall 2008 anti-separatism education.[252]

PROTESTANTISM

The Chinese Government continues to repress Chinese Protestants who worship in unregistered congregations (house churches) and to impose strict regulations on the registered Protestant church. The Communist Party seeks to control Protestants by requiring all congregations to register with and submit to state-run entities charged with overseeing their activities. The Three-Self Patriotic Movement (TSPM) and the China Christian Council (CCC) are the official state-led organizations that manage Protestants on behalf of the State Administration for Religious Affairs (SARA) and the Party's United Front Work Department (UFWD).[253] Registered congregations are subject to state monitoring of church members, interference in clergy appointments, mandatory political study sessions for pastors, and restrictions on doctrine and topics for preaching.[254] Officials continue to subject Protestants who refuse to register to harassment, detention, imprisonment, and forced church closure.

Controls over doctrine and theology

China's state-controlled Protestant church manipulates and modifies doctrine and theology in an effort to eliminate elements of Christian faith that the Party regards as incompatible with its goals and ideology. The process whereby this is achieved is called "theological reconstruction."[255] In 2008, the CCC president described the purpose and function of theological reconstruction in the following terms:

> In the past, Chinese theology for the most part mimicked conservative Western theology. . . . This negative and outmoded theology made it difficult for believers to conceive of adapting to socialist society. The initiative for theological reconstruction was meant to get rid of the shackles of negative theological thinking and open up a new situation in Chinese Christianity. . . . It is an expression of Chinese Christianity's move toward reason, an essential path to adapting to socialist society, and a necessary trend in the fusion of Chinese Christianity and advanced Chinese culture.[256]

Chinese authorities often employ rhetoric in the theological reconstruction campaign that construes nationalism and loyalty to the Party as religious obligations with which Protestants must comply. In a November 2008 report, the TSPM argued that theological reconstruction seeks to "strengthen awareness that 'a good Christian should be a good citizen'" and bring about a "far greater understanding among Chinese Christians of patriotism . . . protecting social stability, ethnic solidarity, and the unification of the motherland."[257] According to an April 2009 Party report, one of the TSPM's greatest accomplishments is that it has led "vast numbers of Protestants to fervently love China, support the leadership of the

Communist Party, and support the socialist system."[258] Wang Zuo'an, Vice Director of SARA, drew the link between patriotism and Party loyalty when he told a 2007 conference of registered Protestants: "When Christians today speak of patriotism, its concrete expression must be to uphold the leadership of the Chinese Communist Party and the socialist system."[259]

Chinese authorities further politicize Christian faith by insisting that the Bible not only permits patriotism, but requires it. When Party leaders compel Christians to "adapt" to the demands of socialism, TSPM leaders advise Protestants that "there is no reason to oppose this in terms of faith: there is no conflict with basic biblical faith, nor is it harmful to biblical truth."[260] Ding Guangxun, the original architect of theological reconstruction and former TSPM chairman, has declared that "the Bible wants us to love our country."[261] SARA leaders echo Ding in proclaiming to Protestants that "love of country is a revelation and teaching found in the Bible."[262] The dean of a TSPM seminary has taught that the official policy of "loving the country, loving the church" is "an intrinsic and important part of Christian faith, with a wealth of biblical evidence" to support it.[263] Authorities have raised Party Chairman Hu Jintao's "harmonious society" slogan to the level of a divine mission. In 2008, the CCC president stated that "making Christianity an active agent in building the harmonious society is both the leading of God for the Chinese Church and the demand of the times for us."[264]

In 2008 and 2009, Chinese officials celebrated theological reconstruction and pledged to continue promoting it. In November 2008, the TSPM and CCC convened a national summit to celebrate the 10th anniversary of theological reconstruction.[265] Ding Guangxun used the summit to urge officials and pastors to "maintain the development of Theological Reconstruction as prima inter pares in every aspect of their work."[266] Wang Zuo'an delivered a speech on behalf of SARA that stressed the importance of bringing about a "theological system with Chinese characteristics and a unique witness that conforms to Chinese society and culture."[267] Wang told TSPM and CCC leaders: "Christians not only must connect with God, but they must also follow God's teaching to connect themselves with the motherland and society." Giving credit to a decade of theological reconstruction "enriching the information coming out of the pulpit," Wang noted that "more and more Christians" have become "enlightened" and "gradually left behind the narrow faith that focuses on personal salvation alone."[268]

In the past year, authorities wielded theological reconstruction as an instrument to "correct" specific tenets and traditions that are seen as out of step with Party policy and ideology. In a report on the 10th year of the theological reconstruction campaign, the TSPM identifies several Protestant beliefs that are problematic and warns of potential risks if they are not "promptly corrected": (1) A one-sided understanding of the second coming of Christ; (2) denial of the importance of works in this life; (3) using "believer and unbeliever" to differentiate people; (4) using "follow God and don't follow men" as a reason for despising national laws and regulations; (5) misconstruing the TSPM as a movement to unify the church and state; (6) one-sided emphasis on "things of the Spirit" to the det-

riment of reason, which leads some towards a fanatical and superstitious faith; and (7) overemphasis on personal salvation.[269] A core Protestant tenet that theological reconstruction seeks to uproot is the Lutheran (Pauline) doctrine of justification by faith alone (sola fide).[270] Ding Guangxun has argued that "playing down some theological views today is permissible, and in fact, necessary," and identified justification by faith as a chief concept to be downplayed because it has been "overemphasized" in China.[271]

Controls over pastoral training and preaching

Chinese Government efforts to shape seminary education are an important component of the theological reconstruction campaign. In its summary report on the 10th year of theological reconstruction, the Three-Self Patriotic Movement (TSPM) identified registered Protestant seminaries as the "base" that serves a "key function" in promoting theological reconstruction. For seminary students and teachers who make "outstanding contributions" to theological reconstruction, the report recommends measures to reward them.[272] The China Christian Council (CCC) also places priority on theological education in its 2008 work report: "Trained personnel are the basis of everything. We must train for the church a large contingent of a variety of outstanding personnel who uphold the leadership of the Chinese Communist Party."[273] In an "important speech" during an April 2009 inspection of the East China Seminary, Yang Xiaodu, a high-ranking Shanghai Party official, praised the seminary as a "base for cultivating patriotic clergy" and expressed "hope" that the school would continue its "fine tradition" of "adapting to socialism."[274] Also in April, authorities in Linfen city, Shanxi province, underscored the need to "strengthen patriotic education and diligently train a team of religious teachers who are politically reliable."[275] Upon graduation from a state-sanctioned seminary, new pastors encounter ordination regulations that mandate acceptance of the Party's authority. The Measures for Recognizing Chinese Protestant Religious Personnel stipulate, as the first of five "basic conditions" for ordination in a registered church, that candidates must "support the leadership of the Chinese Communist Party."[276]

The theological reconstruction campaign also aims to restrict sermon content and control how registered pastors interpret the Bible. In December 2008, authorities in Wuxi city, Jiangsu province, provided unspecified "support" to the local TSPM's "preaching and scripture interpretation class" for registered pastors.[277] In its 2008 work report, the CCC noted the distribution of "sermon prompts" intended to form "the basis of sermon content," based on theological reconstruction "discussions" held in registered churches.[278] Two publications highlighted in the CCC report—"A Course in Christian Patriotism" and "Remembering the Past as a Lesson for the Future"—are regarded as important material for seminarians that "should be studied and discussed in all Christian Churches, among pastoral workers and in the larger Christian community."[279] The latter of the two is described as a "factual history of the manipulation of Christianity by imperialism in its aggression against China."[280] The "promotion of theological education" through these publications will ultimately help Chinese Protestants, among other

things, "establish a correct view of the Bible."[281] In April 2009, the Shenyang TSPM and CCC in Liaoning province designated theological reconstruction as this year's "most important task" and vowed to strengthen it "without a second's delay." Its stated purpose was to correct "ideologically backward" pastors who fail to preach an "interpretation of the Bible that conforms to the demands of social progress."[282]

Restrictions on proselytizing, contact with foreign Christians

The Chinese Government restricts Protestants from proselytizing beyond the physical confines of registered churches, a prohibition that prompts many evangelicals to worship in unregistered congregations and limits interaction between Chinese and foreign Protestants.[283] An ethnographic study conducted in a major city in southern China found that official policies "significantly curtailed" evangelization efforts by both registered and unregistered churches.[284] Authorities often punish Protestants who proselytize with administrative detention, including reeducation through labor (RTL). On December 16, 2008, Zhoukou city public security officials in Henan province ordered three church leaders to serve one year of RTL for "illegal proselytizing."[285] In April 2009, public security officials in Henan's Xinyang city raided a house church service and detained two Chinese missionaries for holding an "illegal" church meeting and possessing illegal foreign religious publications.[286] In February 2009, police stormed a meeting of house church leaders from four provinces that was held in Henan and detained more than 60 participants, claiming that the presence of two South Korean pastors, whom the government deported and banned from China for five years, rendered the meeting an "illegal gathering."[287] In 2008, the Daqing Municipal People's Congress in Heilongjiang province warned that the South Korean Good News Missionary Society had "infiltrated" local universities.[288]

Chinese officials routinely characterize contact between Chinese Protestants and international Christian organizations or individuals as dangerous incidents of "foreign infiltration," which security forces are tasked with preventing.[289] State regulations on religious activities prohibit foreigners from engaging in missionary activity outside of the physical confines of government-registered churches and require foreigners to obtain government authorization before preaching inside registered churches.[290] The "three-self principles" (self-administration, self-support, and self-propagation) of the Three-Self Patriotic Movement (TSPM) embed suspicion of foreign Christians within the basic institutional framework of the state-sanctioned Protestant church. Chinese officials often speak of foreign Christian groups in adversarial terms and credit the "three-self principles" for successfully severing the "ties of Chinese Christian churches with imperialistic invaders."[291] The China Christian Council (CCC) wrote in a 2008 report that "infiltration by groups overseas undermines the achievements of the TSPM. . . . Some of them attempt to use Christianity as an entry point to 'Westernize' or 'split' China. They continually devise new plans to infiltrate China, using religion to disguise their political ideas."[292] The Guangdong United Front Work Department (UFWD) deputy head has described the "house churches and underground churches" that

receive support from "foreign enemy forces" as a "political tool in a plot to subvert the Chinese Government." [293] In select cases, visits by foreigners to registered churches are viewed positively by officials. In 2008, the UFWD praised the Beijing Haidian District Christian Church, a TSPM congregation, for cultivating foreign visitors as an "important means for disseminating overseas the Party's and government's policy of freedom of religious belief." [294]

Harassment, detention, and closure of churches

The Chinese Government's pre-Olympics campaign against Protestant activists and unregistered congregations in 2008 showed few signs of abatement in 2009. Instead, government efforts to suppress house church activities in some areas retained a relatively high level of intensity, as revealed by official rhetoric as well as ongoing arrests and detentions.[295] Numerous Chinese localities carried out "special investigations and studies" in late 2008 and 2009 that sought to gather intelligence on Protestant groups, strengthen the ban on house churches, and improve official oversight and control of the activities of registered churches.[296] Clergy and laity from unregistered churches, as well as those affiliated with registered churches that run afoul of Party policy, remain vulnerable to harassment, detention, and imprisonment. In 2008, authorities detained at least 764 Protestant leaders and adherents, 35 of whom were sentenced or ordered to serve terms of imprisonment or reeducation through labor (RTL) exceeding one year.[297] In 2008 and 2009, government and security officials frequently targeted Pastor Zhang Mingxuan, president of the Chinese House Church Alliance (CHCA), by detaining him several times, confiscating money and personal belongings, evicting his family from their home, formally "abolishing" the CHCA, and severely beating his son with iron bars.[298] Recent cases raise concerns about access to justice and the abuse of Protestants in official custody. In January 2009, officials told an attorney representing Protestants in Zhoukou city, Henan province, that the court rejected her lawsuit because it was "acting on internal documents ordering them not to accept cases involving religious groups." [299] In December 2008, another court in Henan, reportedly under pressure from above, refused an appeal by Mao Minzi, a house church pastor who was ordered to serve one year of RTL.[300] Authorities have harassed some attorneys who defend house church Christians, and in March 2009, the government forced the Beijing Yitong Law Firm to close for six months, which caused a setback to Protestants' efforts to defend their rights.[301] In February 2009, 79-year-old Shuang Shuying, mother of house church pastor Hua Huiqi, was released after serving a two-year prison sentence for protesting her son's detention and striking a police vehicle with her cane.[302] Upon release, Shuang wrote a letter that told of torture that she suffered while in prison. Shuang was beaten, deprived of sleep, shocked with electric batons, forced to drink her own urine, and forced to stand naked outdoors in a stationary position for several hours at night.[303] A U.S.-based nongovernmental organization documented 19 cases of Chinese authorities abusing Protestants in custody during 2008.[304]

Raids of house churches persist in many localities. Public security officials targeted house churches in at least seven provinces

during the 2008 Christmas season.[305] Officers raided a nativity reenactment in Henan's Yucheng county and detained nine participants for "organizing illegal religious activities."[306] On December 22, authorities in Dongzhi county, Anhui province, raided an unregistered Bible school, detained and interrogated 19 students and 2 leaders, and announced plans to demolish or sell the building.[307] In Anhui's Bozhou city, a house church was raided during its Christmas service and two leaders were detained.[308] On Christmas Eve, more than 40 public security officials attacked Protestant volunteers engaged in housing reconstruction for earthquake victims, took several into detention, confiscated their Bibles, and threatened to demolish the newly constructed homes.[309] In Ningbo city, Zhejiang province, public security forces were deployed to "closely follow Christmas activities at unauthorized sites and prevent illegal activities."[310] On February 11, 2009, nearly 100 security officials in Nanyang city, Henan province, forcibly disrupted a meeting of house church leaders and detained more than 60 Chinese pastors and 2 South Korean ministers.[311] In October 2008, Nanyang authorities also dispersed a house church gathering and, after holding the pastor for 15 days in administrative detention, ordered him to serve one year of RTL for alleged membership in an "evil cult."[312] In April 2009, security agents forcibly shut down an Easter gathering of more than 1,000 unregistered Protestants in Chengdu, the capital of Sichuan province, and detained 6 organizers.[313]

Detention and abuse of Protestants is often accompanied by official efforts to shut down or demolish sites of worship. On December 17, 2008, the Deputy General Secretary of the Yancheng City Party Committee in Jiangsu province and public security officials reportedly stormed the Chengnan Christian Church, a registered congregation, and began to raze the building, in violation of a court ruling in the church's favor issued the day before.[314] More than 10 church members were physically assaulted during the demolition.[315] In December, more than 200 people with bulldozers tore down a Protestant-run drug rehabilitation center in Yunnan province without legal justification.[316] Authorities banned an unregistered congregation in the Ili Kazakh Autonomous Prefecture in the Xinjiang Uyghur Autonomous Region (XUAR) just before Christmas and threatened to arrest the congregation's pastor if he defied the ban.[317] In January 2009, Three-Self Patriotic Movement (TSPM) officials worked with government and public security officials to seize the property of Chang Fengying, an evangelist who hosted a house church in Muling city, Heilongjiang province.[318] In February, Shanghai authorities ordered the landlord of the Wanbang Missionary Church to evict the congregation within 30 days because its pastor refused to cancel a seminar for urban house church pastors.[319]

Authorities closed unregistered churches dispersed across a wide area of China in the past year and in some places subjected house church leaders to a coercive "thought reform" process called "transformation through reeducation."[320] In October 2008, local authorities reportedly issued an order banning house churches in Heilongjiang's Yichun city.[321] At the same time, the Chengdu Municipal People's Congress reported that local authorities had

"banned" 161 house churches and "successfully transformed" 196 members of four Protestant "cult organizations."[322] Chongqing municipal authorities also implemented a series of measures in October to "ban" or "demolish" 88 Protestant house churches, and called for the "transformation through reeducation" of unregistered Protestants who serve as a vehicle for "infiltration" by "anti-China political forces."[323] In March 2009, officials in Jiangsu's Taixing city vowed to "attach great importance to the transformation through reeducation of persons responsible for unregistered Protestant meeting sites" and "help them realize that freedom of religious belief does not equal freedom of religious activity."[324] In May 2009, Nanjing Party officials pledged to "ensure that there are no cult meeting sites, no unauthorized Protestant sites, no self-proclaimed missionaries, and that no religious conflicts reach higher authorities."[325] In April, authorities in Ningxia Hui Autonomous Region declared that they would "punish" missionaries and house churches, while county-level officials in Jiangxi province received orders to "investigate and prosecute" the same groups.[326]

Banned Protestant groups and the 6–10 office

The Chinese Government continues to categorically prohibit some Protestant groups from exercising religious freedom by criminalizing their communities as "cult organizations."[327] The government has banned at least 18 Protestant groups with adherents in multiple provinces, though many more Protestant congregations and movements have been banned that are active within only one province.[328] The threat of "cult" designation is a powerful tool for authorities seeking to intimidate and control unregistered Protestants. Three-Self Patriotic Movement (TSPM) leaders have invoked the specter of Falun Gong to persuade Protestants to embrace the theological reconstruction campaign. Ding Guangxun, former TSPM chairman, has warned Protestants that they "will not have a future" if they "begin to resemble Falun Gong or some other cult."[329] In October 2008, an official report from Chongqing municipality drew a link between "cult" prevention and the Party's drive to remake Protestant theology: "passive, conservative, and backward theology is the ideological foundation that constantly produces cult activities."[330] Wang Zuo'an, the Vice Director of the State Administration for Religious Affairs, implied in a 2008 speech that failure to cooperate with the TSPM would provoke a harsh response from the government: "If the three-self principle is abandoned, Chinese Christianity, which has been moving smoothly along in the right direction, will veer off track and meet with a calamity of historical proportions."[331]

Chinese authorities harassed, detained, and physically abused members of banned Protestant groups in the past year, particularly the South China Church (SCC) and the Local Church. The government banned the SCC in 1995 and executed its founder in 2001.[332] According to the Ministry of Public Security, the SCC spread to 88 counties in 15 provinces and converted tens of thousands within one year of its founding in 1990.[333] In November 2008, public security officials in Hubei province detained more than 18 SCC members, beat at least 8 of them, and raided the homes of their families.[334] Several detainees were abducted from their homes or

public places, four have since disappeared entirely, and at least five were compelled to write statements recanting their faith.[335] Security officials have reportedly refused to disclose the charges against the detainees, forbidden family or legal counsel from visiting them, and declined their attorneys' requests for information.[336] Interrogators reportedly told three of the detainees that authorities aimed to "thoroughly destroy" the SCC and that "except the TSPM [Three-Self Patriotic Movement], all other organizations that believe in Jesus Christ are cults."[337] Zhu Yongping, an SCC missionary who went missing in November 2008, previously spent three years in a reeducation through labor facility where he was reportedly tortured.[338]

In 2008 and 2009, the Chinese Government maintained its longstanding campaign to suppress the Local Church, an indigenous Christian movement founded by Watchman Nee in the early 20th century which officials refer to as the "Shouters."[339] Throughout fall 2008, security officials shut down at least 10 Local Church gatherings in the cities of Beijing and Hangzhou.[340] The raids of gatherings in university areas resulted in the detention and interrogation of more than 400 students, many of whom were later disciplined by their universities upon release.[341] In Hangzhou's Xiasha district, authorities simultaneously raided nine services on November 2 and detained more than 30 church members, 4 of whom have been ordered to serve a year or more of reeducation through labor.[342] In Ningbo municipality, instructors used cartoons to teach elementary school students about the "dangers" of the Local Church in "anti-cult" training classes.[343] Official reports from two localities in Fujian province in early 2009 indicate that the Local Church has been singled out as one of the targets that public security forces must "strike hard" against.[344] In January 2009, security officials in Henan province arrested septuagenarian Yuan Shenlun for responding to an anonymous call to pick up Watchman Nee books and videos. Yuan previously served 14 years in prison for his involvement with the Local Church.[345]

The Communist Party's 6–10 Office, an extralegal security force that suppresses banned religious groups, leads the clampdown on unregistered Protestant groups officially deemed to be "cult organizations."[346] During a December 2008 visit to Siyang county in Jiangsu province, Li Xiaodong, the head of the central 6–10 Office, urged local officials to "strengthen the punishment of privately established, rural Protestant meeting sites . . . ban the groups that should be banned, and establish a management system that is effective over the long term."[347] An October 2008 report on official efforts to regulate religion in the municipality that administers Siyang cited government statistics that claim 90 percent of "cult" participants have a Protestant background.[348] A Beijing TSPM leader pledged in 2008 that the state-sanctioned church would "coordinate with the district 6–10 Office . . . to effectively hold back the spread" of the Disciples Association, a banned Protestant group.[349] In Changsha, an April 2009 open letter from the 6–10 Office called for cadres and residents to "resolutely resist cults," specifically the Disciples Association, and promised an "appropriate material reward" for those who "courageously report cult behavior."[350] The letter provides a window into the Party's use of the

term "cult" from its description of their characteristics: "using the name of 'God' to incite its members to oppose the government." [351]

TAOISM

The Chinese Government requires Taoist groups and religious personnel to register with the state-run Chinese Taoist Association (CTA) in order to legally perform ritual services and hold Taoist ceremonies.[352] The State Administration for Religious Affairs (SARA) exercises direct authority over the CTA, as it does for all "patriotic religious organizations." [353] Communities under the CTA face limitations on their religious freedom such as regulations that mandate political conformity, impose state scrutiny over doctrine, and prohibit religious practices that the government deems "superstitious." The CTA continues to compel Taoist communities to support Communist Party propaganda campaigns and policies; it declared that "strengthening the ideological education of Taoist personnel" would be the first of six work goals for 2009.[354] In 2008, the CTA implemented measures for confirming Taoist priests that rank "fervent love of the motherland and support of the leadership of the Chinese Communist Party" as among the first of five basic conditions that must be met for ordination.[355] The measures also impose penalties on Taoist priests for performing rituals in the homes of lay practitioners without prior CTA authorization or engaging in activities deemed to involve "feudal superstition" or "cults." [356] Unregistered Taoist priests—referred to by some government reports as "fake priests"—are subject to various penalties imposed for failure to submit to official CTA confirmation, including "transformation through reeducation." [357] In the past year, the CTA and SARA officials continued to launch special administrative campaigns to bring Taoist priests of the Zhengyi order, who typically marry and reside outside of monastic communities, under the control of local and national CTA authorities.[358]

OTHER RELIGIOUS COMMUNITIES

In the past year, the central government maintained its framework for recognizing only select religious communities for limited government protections, and it did not enlarge this framework to accommodate additional groups. Despite lacking formal central government recognition, however, some religious communities have been able to operate inside China.[359] The Russian Orthodox Church holds services in some areas, and some local governments recognize the Orthodox church within local legislation.[360] The Patriarch of Moscow and All Russia Kirill met with a delegation from China's State Administration for Religious Affairs (SARA) in February 2009. Kirill raised the issue of rebuilding an Orthodox church and the shortage of Orthodox clergy in cities with Orthodox communities.[361] Orthodox church members in Shanghai continued to lack legal recognition to hold services but were reportedly able to participate in a feast day service at the Russian consulate in Shanghai in June.[362] Under current Chinese Government regulations, foreign religious communities, including communities not recognized as domestic religions by the government, may hold services for expatriates, but Chinese citizens are not allowed to participate.[363]

In recent years some local governments have passed legislation that both recognizes and provides a measure of protection for venues where Chinese folk belief activities are practiced, but that also bring such venues under government control.[364] In 2007, Hunan province passed China's first provincial-level legislation to recognize and regulate venues for folk beliefs.[365] In November 2008, SARA visited Hunan to investigate the issue. A SARA official reported positively on the province's regulation of folk beliefs and called for gradually bringing folk beliefs under legal regulation.[366]

Religious Prisoners

Authorities continue to detain, formally arrest, and in some cases imprison Chinese citizens for exercising their right to freedom of religion.[367] Such cases include:

- Alimjan Himit (Alimujiang Yimiti), a Protestant house church leader in the Xinjiang Uyghur Autonomous Region, whom authorities have detained at the Kashgar Municipal Detention Center since January 12, 2008. The Kashgar Intermediate People's Court tried Alimjan Himit on July 28, 2009, on charges of "revealing state secrets or intelligence to overseas organizations." The court has not yet issued a verdict. Alimjan Himit had previously worked at a foreign-owned company shut down for "engaging in illegal religious infiltration activities." A court in Kashgar first tried Alimjan Himit's case on May 27, 2008, and returned it to the procuratorate due to "insufficient evidence."
- Dorje Khadro, a Tibetan Buddhist nun of Pangri Nunnery, founded and headed by Phurbu Tsering and located in Ganzi (Kardze) county, Ganzi Tibetan Autonomous Prefecture, Sichuan province, and one of more than 50 Pangri nuns detained on May 14, 2008, for staging a political demonstration to protest against patriotic education underway at the nunnery and demands that the nuns denounce the Dalai Lama and their teacher, Phurbu Tsering. On November 20, 2008, the Ganzi Intermediate People's Court sentenced "Duoji Kangzhu" to seven years in prison for "inciting to split the country."
- Jia Zhiguo, the 74-year-old unregistered Catholic bishop of Zhengding diocese, Hebei province, whom authorities detained in March 2009 and took to an undisclosed detention facility. Bishop Jia previously served two decades in prison, and since 2003, authorities have detained him numerous times and kept him under strict surveillance when not detaining him, in connection with his religious activities independent of the state-run Catholic Patriotic Association (CPA). His most recent detention was reportedly linked to the CPA's displeasure at a Vatican-brokered reconciliation agreement between Bishop Jia and Jiang Taoran, the bishop of the registered Shijiazhuang diocese.

Religious Prisoners—Continued

- Liu Jin, a librarian at Shanghai Normal University, whom authorities held for nearly a year in pretrial detention. The Fengxian District People's Court in Shanghai convicted Liu under Article 300 of the PRC Criminal Law for downloading Falun Gong materials from the Internet and distributing them. She was sentenced to three-and-a-half years in prison on November 14, 2008.
- Merdan Seyitakhun, Ahmetjan Emet, Seydehmet Awut, Erkin Emet, Abdujilil Abdughupur, Abdulitip Ablimit, Mewlanjan Ahmet, Kurbanjan Semet, Dolkun Erkin, Omerjan Memet, Mutelip Rozi, and Ubulkasim, 12 young Uyghur men from the Ili Kazakh Autonomous Prefecture, Xinjiang Uyghur Autonomous Region, whom authorities detained between March and June 2008 and sentenced on March 24, 2009, to terms ranging from three years' to life imprisonment for "splittism." The charges were connected to their activities teaching religion to children, according to the father of one of the men.
- Paul Ma, a 55-year-old Catholic priest from a predominately Catholic village in Hebei province called Donglu, whom authorities detained in March 2009. Authorities reportedly took Father Ma into custody because he celebrated the Eucharist with unregistered Catholics. His current whereabouts are unknown.
- Phurbu Tsering, a Tibetan Buddhist teacher believed by Tibetan Buddhists to be a reincarnation, who founded and headed a Tibetan Buddhist nunnery in Ganzi Tibetan Autonomous Prefecture, Sichuan province. Public security officials detained Phurbu Tsering on May 18, 2008, after security forces detained more than 50 of the nuns he taught for staging a peaceful political protest march. On April 21, 2009, the Ganzi Intermediate People's Court put Phurbu Tsering on trial for illegal weapons possession. One of his lawyers, Li Fangping, said that Phurbu Tsering denied the charges and claimed he was framed. On April 27, one of the judges contacted Phurbu Tsering's other lawyer, Jiang Tianyong, to tell him that sentencing had been postponed indefinitely. [See CECC, Special Topic Paper: Tibet 2008–2009 for information on the political detention, criminal prosecution, and legal defense of Phurbu Tsering.]
- Shi Weihan, a Christian bookstore owner and Protestant house church leader whom Beijing authorities arrested on March 19, 2008. Authorities accused him of illegally printing and distributing Bibles. On June 10, 2009, the Beijing Haidian District People's Court sentenced him to three years in prison and fined him 150,000 yuan (US$21,960) for operating a business illegally. Public security officials have reportedly pressured Shi's family to refrain from appealing his sentence. Shi is diabetic and has reportedly suffered from poor health while in detention. Authorities have denied his lawyers' requests for medical parole.

Religious Prisoners—Continued

- Xu Na, an artist and poet, and her husband, Yu Zhou, a popular musician, whom public security officials detained on the night of January 26, 2008, for possessing documents and computer disks containing Falun Gong materials. Yu died 11 days later in police custody. The Beijing Chongwen District People's Court sentenced Xu to three years in prison on November 25, 2008, for "using a cult organization to undermine the implementation of the law" (PRC Criminal Law, Article 300).
- Yusufjan and Memetjan, a 27-year-old graduate student and 24-year-old undergraduate at Xinjiang University in the Xinjiang Uyghur Autonomous Region, whom authorities detained along with five others on May 10, 2009, as the students—members of a Muslim religious group—met on the campus of Xinjiang University. Authorities ordered the group members to serve 15 days of detention and fined them 5,000 yuan (US$732) for "holding an illegal gathering." Five of the students were released after 15 days, but Yusufjan and Memetjan were reported to remain in detention as of June 2009, and their whereabouts are unknown.

ETHNIC MINORITY RIGHTS

Introduction

The Chinese Government continued in the past year to implement policies that undermine ethnic minority citizens' rights. The government repressed expressions of ethnic identity perceived to challenge government authority, especially in the Xinjiang Uyghur Autonomous Region (XUAR), Tibet Autonomous Region and other Tibetan areas, and Inner Mongolia Autonomous Region. [See Section IV—Xinjiang and Section V—Tibet, for additional information on Uyghurs and Tibetans. For more information on Mongols, see Human Rights in the Inner Mongolia Autonomous Region in this section.] While the Chinese Government maintained some protections in law and practice for citizens it designates as ethnic minorities (*shaoshu minzu*),[1] shortcomings in the substance and implementation of Chinese laws and policies continued to prevent ethnic minorities from exercising their rights in line with domestic law and international human rights standards.[2] Ethnic minorities did not enjoy "the right to administer their internal affairs"[3] as provided for under the PRC Regional Ethnic Autonomy Law.[4] As in the case of demonstrations by Tibetans and Uyghurs in early 2008, a demonstration on July 5, 2009, by Uyghurs in the XUAR and outbreaks of violence in the region starting that day—followed by harsh security measures—again directed an international spotlight on grievances held by non-Han ethnic groups, tensions in ethnic autonomous areas, and longstanding problems in Chinese Government policies toward ethnic minorities and ethnic issues. [See Section IV—Xinjiang, for details of the July 5 demonstration.]

The Commission tracked several developments from the Commission's 2009 reporting year that underscored the continuing challenges ethnic minority citizens faced in protecting their rights.[5] First, in the aftermath of demonstrations in 2008 and 2009 by Tibetans and Uyghurs that highlighted systemic problems in state policies toward ethnic minorities and ethnic issues, the central government continued to attribute outstanding tensions to its citizens while asserting the effectiveness of government policies and amplifying publicity in their support. Second, the government continued to implement economic development projects that prioritize government economic goals over broad protection of ethnic minorities' rights and guaranteeing ethnic minority participation in decision-making processes. The projects build on longstanding development programs that have brought some benefits to ethnic minority regions but also have introduced additional threats to the protection of ethnic minorities' rights. Third, although officials in the Inner Mongolia Autonomous Region reported taking steps to promote the use of the Mongolian language, they also continued to implement other measures that undermine Mongol traditions and livelihoods and punish people who defend Mongols' rights or who express dissent. Fourth, the Chinese Government continued in the past year to impose controls over how individuals and communities define their ethnicity, interpret their history, and preserve their culture and language.

Also in the past year, the Chinese Government pledged to increase protection for the rights of ethnic minorities in its 2009–

2010 National Human Rights Action Plan (HRAP).[6] While the HRAP outlines measures to support legislation, governance, education, personnel training and employment, language use, and cultural and economic development among ethnic minorities,[7] domestic and overseas observers have questioned the likely impact of the broadly worded HRAP amid the Chinese Government's poor human rights record, including in the area of ethnic minorities' rights.[8] The UN Committee on the Elimination of Racial Discrimination, which examined the Chinese Government's compliance with the International Convention on the Elimination of All Forms of Racial Discrimination in August 2009, expressed concern with government policies affecting ethnic minorities in areas such as language rights, migration, government representation, freedom of religion, non-discrimination, development, and healthcare.[9]

In the past year, the Chinese Government continued to hinder opportunities for dialogue on ways to protect the rights of ethnic minority citizens. As the government heightened propaganda in support of its policies toward ethnic minorities, it amplified rhetoric against "international hostile forces" interfering in China's ethnic affairs.[10] Government officials continued to vilify the Tibetan spiritual leader the Dalai Lama and Uyghur rights activist Rebiya Kadeer, both of whom aimed to peacefully engage with the Chinese Government to improve conditions for ethnic minorities in China.[11] At the February 2009 session of the UN Human Rights Council's Universal Periodic Review of the Chinese Government's human rights record, the Chinese Government rejected recommendations to review laws and policies toward ethnic minorities and to allow international agencies and media greater access to Tibetan areas of China.[12]

Government Affirms Policy on Ethnic Issues, Heightens Propaganda

In the aftermath of demonstrations in 2008 and 2009 by Uyghurs and Tibetans that highlighted systemic problems in state policies toward ethnic minorities and ethnic issues,[13] the Chinese Government continued in this reporting year to attribute outstanding tensions to its citizens while asserting the effectiveness of government policies and amplifying publicity in their support. In early 2009, the Central Propaganda Department and the State Ethnic Affairs Commission (SEAC) published an outline to strengthen general propaganda and education on government and Communist Party policy on ethnic issues. The outline affirmed the government's existing policies and attributed perceived outstanding problems to "contradictions among the people." The outline also called for resisting "international hostile forces raising the banner of such things as 'ethnicity,' 'religion,' and 'human rights' to carry out Westernization and separatist activities toward our country." [14]

Following the July 5 demonstration by Uyghurs in the Xinjiang Uyghur Autonomous Region capital of Urumqi and outbreaks of violence starting that day, the government again emphasized the efficacy of its policies. At a press conference in July, Wu Shimin, vice minister of SEAC, denied any connection between events on July 5—which authorities have blamed on U.S.-based Uyghur rights activist Rebiya Kadeer, the World Uyghur Congress, and the "three forces" of terrorism, separatism, and religious extremism[15]—and

Chinese policies toward ethnic minorities. He described the policies as "a long-term success" and said the government had no plans to reevaluate them.[16]

The government also heightened propaganda on ethnic unity in the past year. In November 2008, the Ministry of Education and SEAC issued a trial program directing schools throughout the country to implement "ethnic unity education" in a stated effort to promote Communist Party policy on ethnic issues.[17] The program requires schools to guarantee 10 to 14 hours of "ethnic unity education" a year to students starting in grade three of elementary school through the high school and vocational school levels.[18] The Central Propaganda Department, Ministry of Education, and SEAC held a meeting in late August again calling for measures to strengthen propaganda and education on ethnic unity.[19]

The government reported taking some steps in the past year to refine implementation of its existing framework for ethnic autonomy, at the same time it affirmed the basic features of the system. The government's 2009–2010 National Human Rights Action Plan, issued in April 2009, pledged to "expedite" drafting of regulations related to the implementation of the PRC Regional Ethnic Autonomy Law and to revise two existing regulations related to ethnic minorities.[20] From May to July, central government and Party authorities reported investigating problems in implementation of state policy on ethnic issues, in accordance with directives issued in 2008 and 2009, and reported the investigations included focus on preventing and redressing discrimination toward ethnic minorities.[21] According to Xinhua, SEAC announced plans in late July to increase research on ethnic issues "in order to better solve minority disputes."[22]

Economic Development

The Chinese Government continued in the past year to implement development projects that prioritize state economic goals over protecting ethnic minorities' rights and guaranteeing ethnic minority participation in decisionmaking processes. Steps implemented in the past year build on longstanding development efforts that have brought some benefits to ethnic minority regions but also have introduced additional threats to the protection of ethnic minorities' rights.[23] Development programs—such as the decade-old central government Great Western Development project directed at 12 provinces, municipalities, or autonomous regions[24]—have been implemented in a top-down fashion that marginalizes participation and decisionmaking by ethnic minority communities.[25] Such policies have undermined ethnic minorities' rights to maintain traditional livelihoods, spurred migration to ethnic minority regions, promoted unequal allocation of resources favoring Han Chinese, intensified linguistic and assimilation pressures on local communities, and brought environmental damage.[26] Development policies also remain intertwined with political objectives to foster ethnic unity and political stability.[27] [For more information on development projects in specific areas, see Human Rights in the Inner Mongolia Autonomous Region in this section, Section IV—Xinjiang, and Section V—Tibet.]

In November 2008, the central government issued an opinion on advancing science and technology development among ethnic minorities and in ethnic minority areas,[28] linking such development to strengthening "ethnic unity," the "unity of the motherland," and security in China's border areas. The opinion includes potentially beneficial provisions, but lacks measures to ensure ethnic minorities have meaningful participation in determining development policies[29] and receive benefits that accrue from development efforts.[30] The government pledged in its 2009–2010 National Human Rights Action Plan (HRAP) to devote 2 billion yuan (US$293 million) to promote economic and social development among ethnic minorities and in ethnic minority areas, including for infrastructure construction and poverty elimination for populations living in extreme poverty.[31] The potential impact of the pledge remains unclear, however, amid the Chinese Government's poor track record in implementing equitable development projects and amid doubts concerning the effectiveness of the HRAP.[32]

Identity, Culture, and Language

The Chinese Government continued in the past year to impose government controls over how individuals and communities define their ethnicity, interpret their history, and preserve their culture and language. Chinese Government policy imposes fixed ethnic identities on Chinese citizens and denies communities the freedom to fully interpret and define their ethnicity free from state intervention.[33] Although state-determined identities mesh to some degree with how communities self-identify, and citizens have some leeway to change their formal ethnic affiliation in accordance with state-defined categories,[34] the government's system of classifying ethnic groups also has denied some communities the freedom to formally identify as distinct ethnic groups.[35] In the past year, the government continued to impose official versions of Chinese history, including the histories of different ethnic groups, to legitimize the government's current borders and policies.[36] In addition, the State Administration of Radio, Film, and Television issued a notice in July that called for ensuring the accuracy of historical dramas and called for greater scrutiny of series touching on "particularly sensitive subject matter" like ethnicity and religion.[37]

The Chinese Government has used domestic and international mechanisms for cultural heritage protection to preserve some aspects of ethnic minority culture, but in accordance with government and Party aims and definitions.[38] One central government official, speaking in 2006 on the protection of intangible cultural heritage, noted, "Protection of intangible cultural heritage and maintaining continuity of the national culture constitute an essential cultural base for enhancing cohesion of the nation, boosting the national unity, invigorating the national spirit and safeguarding the national unification."[39] In the Xinjiang Uyghur Autonomous Region, authorities launched a project in February 2009 to demolish and "reconstruct" the Old City area of Kashgar city after determining most buildings in the nationally designated historic area had little historic preservation value, a project which has drawn opposition from Uyghur residents and outside observers for undermining her-

itage protection and forcing the resettlement of residents.[40] [See Section IV—Xinjiang, for detailed information.]

The government and media publicized efforts launched in 2009 that were described as a means to promote ethnic minority culture, but in some cases emphasized the importance of such measures to meet state political goals. A June 2008 article noting government steps to promote ethnic minority languages and preserve endangered languages described such efforts as playing an "irreplaceable role" in such areas as "political stability," "social advancement," and "ethnic unity."[41] The Chinese Government included support for ethnic minority cultural endeavors in its 2009–2010 National Human Rights Action Plan,[42] and in July, the State Council issued an opinion to "promote the development of ethnic minorities' culture."[43] The opinion includes calls for increasing support in areas such as building libraries in ethnic minority communities, promoting publications in ethnic minority languages, and preserving cultural heritage, but also calls for using media to disseminate information on Party policy and for guarding against "cultural infiltration" by "hostile forces" outside China.[44]

The government has increased educational opportunities for ethnic minorities,[45] but recent legislation and policy have reduced support for education in ethnic minority languages despite the regional ethnic autonomy system's support for educational autonomy and school instruction in ethnic minority languages.[46] The 2005 implementing measures for the PRC Regional Ethnic Autonomy Law (REAL) curbed the REAL's support for education in ethnic minority languages[47] in favor of "bilingual" education. The "bilingual" policy has been implemented in some areas to focus primarily on instruction in Mandarin Chinese. [See Section IV—Xinjiang, for more information on implementation within the Xinjiang Uyghur Autonomous Region.] Outside of the "bilingual education" framework, other localities, such as some ethnic minority areas in southwestern China, have focused on educating ethnic minority students in Mandarin Chinese.[48] While Mandarin education responds to a growing need for proficiency in the language to obtain economic and social mobility, it also underscores the shortcomings of the Chinese Government's ethnic minority policies in securing a form of autonomy that enables citizens to maintain economic and social opportunities in ethnic minority languages. [See Human Rights in the Inner Mongolia Autonomous Region in this section for information on language policy in the Inner Mongolia Autonomous Region.]

Human Rights in the Inner Mongolia Autonomous Region

As in other areas of China where authorities perceive ethnic minorities to challenge state power and support separatism, authorities in the Inner Mongolia Autonomous Region (IMAR) have repressed independent expressions of Mongol ethnic identity and punished Mongols who have protested government policy and advocated for the protection of their rights. Ethnic Mongols in the region have faced controls over traditional pastoral livelihoods and barriers to protecting their language.[49] Mongols also have faced pressures from Han migration,[50] discrimination in job hiring,[51] and, as followers of Tibetan Buddhism, tighter controls over their religious practices.[52]

The IMAR government continued in the past year to implement policies to resettle herders away from grasslands and shift them to new occupations, with the stated aim of improving grasslands conditions. For example, a March 2009 article from official media reported that authorities in the county-level Urad Rear Banner have planned to shift 80 percent of herders off grasslands to other sectors of employment, in order to relieve pressure on grasslands.[53] In a speech the same month, the vice chair of the IMAR government called for better systematizing measures to shift farmers and herders to different sectors of employment.[54] Also in March, the IMAR government passed a directive to promote the employment of at least one family member in a wage-based occupation by 2011, among families with no members employed in secondary or tertiary industries.[55] The measures from the past year continue older "ecological migration" policies in the IMAR, sometimes reported to be compulsory, that have eroded Mongols' pastoral livelihoods.[56] Herding communities resettled to towns and urban areas have faced challenges in preserving traditions and adapting to new, government-imposed livelihoods.[57] Authorities have required those who stay on grasslands to abide by government directives on fencing grasslands and laying pastures fallow.[58] Scholars have questioned the effectiveness of these government policies in ameliorating environmental degradation.[59] [For additional information, see Section II—Climate Change and Environment.]

After sustained implementation of policies that decreased the use of the Mongolian language in the IMAR, authorities have taken steps in recent years to spur greater use of the language. The IMAR government implemented legislation in 2005 to promote the language,[60] but reported in 2007 that problems remained in implementation.[61] That year, authorities issued an opinion on strengthening work on ethnic minority education that included measures to increase Mongolian-language education within a three-year period.[62] In the past year, authorities in the IMAR continued to report on promoting efforts to expand Mongolian language use, through measures including free schooling and increased subsidies for students who receive education in Mongolian.[63] At the same time, in recent years, including in 2009, authorities have targeted some Mongolian-language Web sites and Mongol discussion sites for scrutiny and closure,[64] and a Mongol rights advocate in the IMAR has reported on curbs over the use of Mongolian on a university campus.[65]

Ethnic Mongols who aim to protect their rights or preserve their culture continue to face the risks of harassment, detention, and imprisonment. Mongol rights advocates Naranbilig and Tsebegjab remained under illegal home confinement for part of this reporting year after authorities held them in detention in 2008 in two unrelated incidents.[66] In addition, authorities took steps in the past year to block Naranbilig's participation in international forums to protect indigenous rights, including through confiscation of his passport.[67] Mongol rights advocate Hada remains in prison since receiving a 15-year sentence in 1996 after he organized peaceful protests for ethnic minority rights in the IMAR capital of Hohhot.[68] Following a trial in 2006, Mongol doctor Naguunbilig reportedly continues to serve a 10-year sentence for cult-related offenses,

while his wife, Daguulaa, is under home confinement, after authorities reportedly accused them of using healing methods that were "a Mongolian version of Falun Gong."[69]

POPULATION PLANNING

Introduction

In the Commission's 2009 reporting year, central and local authorities continued to interfere with and control the reproductive lives of Chinese women through an all-encompassing system of family planning regulations in which the government is directly involved in the reproductive decisions of its citizens. Population planning policies limit most women in urban areas to bearing one child, while permitting slightly more than half of women in rural areas to bear a second child if their first child is female.[1] In the past year, the Commission notes that several Chinese municipalities are allowing younger couples in which both spouses hail from one-child households to have more than one child.[2] Despite progress in this regard, local officials and state-run work units continue to interfere in the reproductive lives of Chinese women by monitoring their reproductive cycles in order to prevent unauthorized births.[3] The Chinese government requires married couples to obtain a birth permit before they can lawfully bear a child and forces them to use contraception at other times.[4] Violators of the policy are routinely punished with fines, and in some cases, subjected to forced sterilization, forced abortion, arbitrary detention, and torture.[5]

China's population planning policies in both their nature and implementation violate international human rights standards. Although implementation tends to vary across localities, the government's population planning law and regulations contravene international human rights standards by limiting the number of children that women may bear and by coercing compliance with population targets through heavy fines.[6] For example, the PRC Population and Family Planning Law is not consistent with the standards set by the 1995 Beijing Declaration and the 1994 Programme of Action of the Cairo International Conference on Population and Development.[7] Controls imposed on Chinese women and their families and additional abuses engendered by the system, from forced abortion to discriminatory policies against "out-of-plan" children, also violate standards in the Convention on the Elimination of All Forms of Discrimination Against Women,[8] the Convention on the Rights of the Child,[9] and the International Covenant on Economic, Social and Cultural Rights.[10] In December 2008, the UN Committee against Torture expressed concern with Chinese authorities' "lack of investigation into the alleged use of coercive and violent measures to implement the population policy" and urged the government to bring its population planning policies into "full compliance" with the relevant provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.[11] As a state party to all of these treaties, China is bound to uphold their terms.

Fines for Violators and Rewards for Informants

Local governments have in some cases stepped up efforts to impose penalties and fines against couples who give birth to an unauthorized child. Officials refer to these fines as "social compensation fees" (*shehui fuyang fei*), which for certain couples pose a dilemma

between undergoing an unwanted abortion and incurring potentially overwhelming financial costs. In February 2009, the Ganzhou municipal government in Jiangxi province established a "collection management program" for social compensation fees that requires officials to maintain a file for each person who violates family planning regulations and stipulates that violators who refuse to pay the fines should be added to a credit "blacklist" in China's banking system.[12] The Ganzhou program also authorizes officials to apply "coercive measures" such as judicial detention and property seizure against those who refuse to pay the fines.[13] In the same month, the Anxi county government in Fujian province issued a circular ordering officials to seek court authorization to carry out "coercive measures" when family planning violators fail to pay fines.[14] In its 2009 work plan, the Qianguo County Population and Family Planning Commission in Jilin province called on local officials to "expand special punishments for illicit births, strictly enforce the investigation and prosecution of illicit births, and stress the strengthening of penalties for those who violate [family planning policies]."[15]

Authorities in some localities are levying social compensation fees at higher levels according to the violator's income and, in some cases, additional fines are imposed on women who resist official efforts to "implement remedial measures" such as abortion. In Chongqing municipality's Tongliang county, for example, officials launched a multi-month project in July 2008 that would impose fines of between 5,000 yuan (US$731) and 10,000 yuan (US$1,464) on women who resist government efforts to compel them to have an abortion. This fine is levied in addition to the ordinary social compensation fee of 2,000 yuan (US$293) to 5,000 yuan (US$731).[16] In November 2008, the Shanxi Provincial People's Congress Standing Committee passed an amendment to the provincial family planning regulations that imposes stricter standards for social compensation fees. For couples who have a second child in violation of these regulations, the government will assess a social compensation fee equal to 20 percent of a couple's combined income once per year for seven years, which must total no less than 7,000 yuan (US$1,025). If a couple has a third child, the fine rises to 40 percent of their combined income assessed for a 14-year period, which must total no less than 30,000 yuan (US$4,392).[17] In March 2009, Xinhua reported that authorities in Fuzhou city, Fujian province, fined two private entrepreneurs from the Cangshan district 200,000 yuan (US$29,275) and 300,000 yuan (US$43,912) each for "illegal births." Two other entrepreneurs from nearby districts paid 100,000 yuan (US$14,637) each in penalties for violating population planning policies.[18]

Local governments also offer monetary incentives to citizen informants who report violations of population planning regulations. In March 2009, the Beijing Times reported that the Beijing Municipal Population and Family Planning Commission had begun offering rewards of an unspecified amount to informants who report "out-of-plan" pregnancies and extramarital pregnancies.[19] In April 2009, the Chun'an County Bureau of Population and Family Planning in Zhejiang province introduced a system for providing informants with cash rewards of 1,000 yuan (US$146) per violation reported. The circular also states that authorities will "strictly pro-

tect the secrecy" of the informant's identity.[20] In July 2009, Yangxin county authorities in Shandong province released measures for providing citizen informants with awards ranging from 300 yuan (US$44) to 3,000 yuan (US$439) depending on the severity of the reported violation.[21]

Implementation: Abortion and Sterilization

The use of coercive measures in the enforcement of population planning policies remains commonplace despite provisions for the punishment of official abuse outlined in the PRC Population and Family Planning Law.[22] The same law requires that local family planning bureaus conduct regular pregnancy tests on married women and administer unspecified "follow-up" services.[23] The population planning regulations of at least 18 of China's 31 provincial-level jurisdictions permit officials to take steps to ensure that birth quotas are not exceeded; in practice, these steps can include forced abortion and forced sterilization.[24] In some cases, local officials coerce abortions in the third trimester.[25] "Termination of pregnancy" is explicitly required if a pregnancy does not conform with provincial population planning regulations in Anhui, Hebei, Heilongjiang, Hubei, Hunan, Jilin, Liaoning, and Ningxia provinces. In 10 other provinces—Fujian, Guizhou, Guangdong, Gansu, Jiangxi, Qinghai, Sichuan, Shanxi, Shaanxi, and Yunnan—population planning officials are authorized to take "remedial measures" to deal with "out-of-plan" pregnancies.[26] In the past year, the Commission analyzed official reports from local governments in over a third of China's provincial-level jurisdictions and found that the term "remedial measures" (*bujiu cuoshi*) is used synonymously with compulsory abortion.[27]

In the past year, authorities in various localities forced women to undergo abortions, and in some cases, reportedly beat violators of population planning regulations. In February 2009, a woman in Guangdong's Shenzhen Special Economic Zone told local media that officials subjected her to a forced abortion six days prior to her due date because she was pregnant with her second child (her first was a daughter) before the officially mandated period between births had passed.[28] Ten family planning workers took her to a clinic where she was injected in the abdomen with medication to induce an abortion. They reportedly kicked her in the stomach to expedite the abortion.[29] In April 2009, several male family planning workers in Sihong county, Jiangsu province, reportedly took a woman from her home and beat her repeatedly because she missed the deadline for a mandatory pregnancy exam and intrauterine device (IUD) inspection.[30] Authorities in Guangdong's capital forced three young surrogate mothers to undergo abortions when they were discovered hiding there in April. Authorities physically forced the women's thumbprints onto a consent form, according to one woman's account.[31] In June 2009, family planning officials in Guan county, Shandong province, forced 35-year-old Feng Junhua to have an abortion in her ninth month of pregnancy. The injection to induce abortion reportedly caused massive hemorrhaging and killed the mother.[32]

In late 2008, officials in at least three provinces (Jiangsu, Guizhou, and Anhui) and one provincial-level administrative area

(Chongqing), unveiled plans and circulars launching family planning campaigns that mandate abortions of "out-of-plan" pregnancies. Chongqing's Tongliang county government introduced a multi-month project in late summer 2008 with an "overall objective" to "go further in reducing unwanted and out-of-plan pregnancies and to implement first term and mid-to-late term abortion remedial measures."[33] In November, officials in Qingshanquan township, Xuzhou municipality, Jiangsu province, declared a "month of concentrated corrective activities" for family planning officials, the "focus" of which was "the implementation of . . . first-term and mid- to late-term abortion and other remedial measures."[34] The circular stressed that officials must "avoid just going through the motions" and should instead "resolutely implement abortion and other remedial measures, strictly standardize the birth policy, adopt remedial measures for each and every out-of-plan pregnancy, and reliably prevent out-of-plan births."[35] Also in November, the family planning "leading group" of Guizhou's Qiandongnan Miao and Dong Autonomous Prefecture pressed local officials to "take forceful measures" and "resolutely adopt remedial measures for out-of-plan pregnancies."[36] It recommended "strengthening" pregnancy exams in order to "remedy" out-of-plan pregnancies at an early stage and thereby reduce "late-term abortions and control measures."[37] In December, authorities in Changfeng county, Anhui province, circulated a directive that ordered comprehensive inspections in which "no village misses any group, no group misses any household, no household misses any person, and no person misses any item." During these inspections, officials must "resolutely carry out remedial measures to the stipulated standard" for households with a son or more than one child.[38]

In 2009, authorities in some areas of Yunnan and Fujian provinces also employed abortion as an official policy instrument. In Yunnan's Yanjin county, Niuzhai township officials developed a 2009 implementation plan that outlined abortion targets for specific groups: "strictly prohibit the birth of multiple children; for women who have multiple out-of-plan children and become pregnant again, the abortion rate must reach 100 percent; for women who have two out-of-plan children and become pregnant again, the abortion rate must exceed 90 percent; for women who have one out-of-plan child and become pregnant again, the abortion rate must exceed 85 percent."[39] In December 2008, Luxi city authorities in Yunnan decided that village-level Communist Party secretaries must "stand in the front of the line and set an example in breaking through difficult problems such as . . . abortions of out-of-plan pregnancies."[40] In February 2009, officials in Anxi county, Fujian province, initiated a five-week campaign of "concentrated service activities" that designated the "implementation of abortion remedial measures" among its five "primary tasks." The circular authorizing the campaign instructs officials to "adopt effective and comprehensive punitive measures and ensure that remedial measures against out-of-plan pregnancies are taken promptly and reliably."[41] In May 2009, officials in Xianyou county, Fujian, detained 55-year-old Wu Xinjie in order to pressure her daughter, who was nine months pregnant with a second child and had fled the area, to have an abortion.[42] During the same period, Xianyou family planning

authorities told a reporter that they forced a 20-year-old unmarried woman who was seven months pregnant to undergo an abortion.[43] In June 2009, the Wuyishan county government in Fujian published village family planning regulations that stipulate the following: "In emergency situations when pregnancies violate family planning policies, report the matter to the village committee and promptly carry out remedial measures (abortion)."[44]

Some local governments specifically target migrant workers for forced abortions. In April 2009, authorities in Jinyun county, Zhejiang province, drafted an implementation plan for a month-long family planning campaign in which villages would "battle with themselves" by conducting door-to-door inspections to obtain "clues" about out-of-plan pregnancies and determine the "true whereabouts" of migrant workers who have left the villages. The plan urges county-level officials to "assist the township law enforcement group with the implementation of remedial measures such as abortion and the collection of social compensation fees."[45] When migrants with out-of-plan pregnancies are discovered, officials should "promptly report to higher authorities and resolutely implement remedial measures; the implementation rate for remedial measures must reach 100 percent."[46] In Kunming, the capital of Yunnan province, family planning provisions impose financial penalties designed to coerce migrant workers with unauthorized pregnancies to undergo an abortion.[47] The provisions require enterprises that employ migrants and officials from the residential committees where they live to report out-of-plan pregnancies to the family planning authorities and to attempt to "persuade" the migrant to "take remedial measures." Local authorities then send the migrant a formal written "notification" that she must "take remedial measures." If the migrant worker fails to have an abortion after receiving the notification, authorities can deduct a fine directly from her wages on a provisional basis.[48] After 15 days of the penalty period elapse, the government can impose an additional fine, calculated at 3 percent of the total deduction from her wages for each day that passes that she does not "take remedial measures to terminate the pregnancy."[49]

Local authorities continue to mandate surgical sterilization and the use of contraception as a means to enforce birth quotas. In November 2008, a township in Jiawang district, Xuzhou municipality, Jiangsu province, released a circular urging officials to "take the rectification of hidden dangers as your vehicle and ruthlessly seize the implementation of intrauterine device (IUD) implantation measures."[50] In March 2009, township-level authorities in Fujian province's Sha county issued family planning recommendations that call on officials to "strictly act on the demand to carry out tubal ligation within one month" for women who give birth to a second or third child, and set the implementation target for this group at 100 percent.[51] Officials must also ensure that IUDs are inserted in women within three months of the birth of a first child.[52] Officials from Guidong county, Hunan province, reported in June 2009 the completion of examinations conducted on 819 women, resulting in nine tubal ligations and 17 IUD implantations.[53] A newspaper in Yunnan province reported in February 2009 that officials there ambushed a woman named Zhang Kecui in the street and forced

her to an operating room where she unwillingly underwent surgical sterilization.[54]

Incentives for Citizens and Officials

Some local governments offer monetary incentives and other benefits to couples who voluntarily undergo sterilization or abortion procedures. In October 2008, the Panyu District Population and Family Planning Commission in Guangzhou city, Guangdong province, announced that women who undergo tubal ligation are eligible to receive a monthly reward of 25 yuan (US$4) starting from the month of the surgery until they turn 55 years old.[55] In a November 2008 circular issued by the Inner Mongolia Autonomous Region Population and Family Planning Commission, authorities increased the one-time reward for women with two daughters who undergo tubal ligation from 500 yuan (US$73) to 1,500 yuan (US$220). Women who live in rural areas and have two children of either sex can also receive a 1,000 yuan (US$146) reward for choosing surgical sterilization.[56] In March 2009, authorities in Guangdong province's Shenzhen Special Economic Zone issued a circular announcing that married women who become pregnant without authorization are eligible for "subsidies" if they volunteer for an abortion. The circular specifies a reward of 500 yuan (US$73) for voluntary abortions performed within the first 14 weeks of pregnancy and 700 yuan (US$102) for those performed after the first 14 weeks.[57]

Many provinces link job promotion with an official's ability to meet or exceed population planning targets, thus providing a powerful structural incentive for officials to employ coercive measures in order to meet population goals.[58] In January 2009, Wuyishan county in Fujian province published a "family planning responsibility manual" for township and village officials that detailed a point system for performance evaluations on family planning issues. For example, officials receive 15 points for completing all of the tubal ligation targets for the year and 10 points for meeting intrauterine device targets.[59] Five points are added for each mid- to late-term abortion that an official oversees and two points for each first-trimester abortion. Conversely, two to five points are deducted from an official's evaluation for each child born out of plan, depending on the number of children already present in the household. Officials who score 90 points or higher on their evaluations are rewarded with a bonus of 2,000 yuan (US$293).[60] Dasi township authorities, in Yunnan province's Fengqing county, issued a circular in April 2009 that notified local officials that a percentage point would be deducted from their annual performance evaluations each time they fail to "promptly implement" contraception measures for all married women who give birth or have an abortion.[61] Officials receive seven points if contraceptive measures sufficiently control the total number of "remedial procedures" to less than 21 "first-trimester abortions" and less than 12 "mid- to late-term abortions."[62]

Abuse of Advocates

Chen Guangcheng, a legal advocate and rights defender from Linyi city, Shandong province, on whom the Commission reported in 2007 and 2008, was sentenced to more than four years in prison in 2006 for exposing widespread abuses by local family planning officials.[63] In 2007 and 2008, prison authorities prevented Chen from communicating with his family, refused his medical parole request, and accused him of having "illicit relations with a foreign country."[64] In April 2009, Albert Ho of the Hong Kong-based China Human Rights Lawyers Concern Group reported that Chen's health while in prison "continues to worsen," and warned that "[Chen's] life may be in danger."[65] Authorities have placed Chen's wife, Yuan Weijing, under varying degrees of home confinement and surveillance since 2005. In March 2009, investigative journalist Wang Keqin and three companions were "beaten out of [Yuan Weijing's] village" when they attempted to bring food and toys to Yuan and her two young children.[66] When Wang telephoned Yuan to inform her that he could not visit, she responded: "[T]hese people have been around our home for more than a year. . . . There are always 11 people around our home, 24 hours a day. . . . When we go shopping or work in the fields, someone is watching us. At night, they even stoop outside the window to eavesdrop on us."[67] In April 2009, Yuan tried to visit her grieving sister after her brother-in-law's death in a car accident, but nine men forcibly escorted her home where she was "punched and kicked by the men while being dragged back to her house."[68] Authorities have reportedly prevented Chen and Yuan's children from enrolling in school.[69]

Demographic Crisis

China's skewed sex ratio presents a demographic challenge that will continue to worsen over the next 20 years, according to an April 2009 study in the British Medical Journal (BMJ).[70] The study estimates that in 2005, there were 32 million more males than females under the age of 20, and 1.1 million more boys were born than girls.[71] Considering the impact of China's population planning policies, the study notes that "the fact that the problem of excess males in China seems to outstrip that of all other countries is perhaps no surprise."[72] Central government data from 2007 estimates a greater imbalance in the sex ratio: 37 million more males than females.[73] In 2000, the most recent year for which national census data is available, the male-to-female sex ratio for the infant-to-four-year-old age group was reportedly 120.8 males for every 100 females. This is far above the global norm of roughly 105 males for every 100 females.[74] At least five provinces—Jiangsu, Guangdong, Hainan, Anhui, and Henan—reported ratios over 130 in 2005.[75] Some political scientists argue that large numbers of "surplus males" could create social conditions that the Chinese government may choose to address by expanding military enlistment.[76] In response to government-imposed birth limits and in keeping with a traditional cultural bias for sons, Chinese couples often engage in sex-selective abortion, especially rural couples whose first child is a girl.[77] The April 2009 BMJ study found a steady increase in the

sex ratio in China since ultrasound technology—through which pregnant couples can determine the sex of the fetus—became available in the 1980s.[78] The study attributes what it calls an "imminent generation of excess males" largely to the practice of sex-selective abortion, rather than under-registration of girls or infanticide.[79] In 2006, the National People's Congress Standing Committee considered, but did not pass, a proposed amendment to the PRC Criminal Law that would have criminalized sex-selective abortion.[80] Provincial governments in at least five provinces (Guizhou, Hubei, Shandong, Shanxi, and Jiangsu) have passed similar measures;[81] however, the central government has taken no action at the national level.

Population Planning in Jiujiang: A Case Study

Throughout June and July 2009, population planning authorities in Jiujiang, a prefectural-level municipality in Jiangxi province, published policy statements, policy objectives, and statistical reports which, taken together, illuminate the breadth and depth of population planning measures in a local setting. Several themes emerged in these reports, including:

- *Concern for "remedying" unplanned births and insufficient compliance rates.* A June 17 report issued by the Jiujiang county government emphasized the implementation of "remedial measures" to "resolutely put an end to unplanned births and comprehensively raise birth policy compliance rates." Officials and cadres were urged to place special emphasis on abortions as a part of these measures. The report said that "First-trimester abortions or mid- to late-term abortions must be performed on all individuals with unplanned pregnancies within the allotted time period to ensure the birth policy compliance rate reaches the standard."[82]
- *Statistics demonstrating the scale of population planning measures in local communities.* Governments submitted detailed statistics regarding local implementation of population planning measures to officials at higher level jurisdictions. These reports typically contained information on the amount of fines collected and the number of abortions, tubal ligations, pregnancy exams, and intrauterine device (IUD) implants conducted in the first half of 2009. Yining, Huanggang, Quanfeng, and Sidu townships published statistical reports on the Xiushui County Population and Family Planning Committee (PFPC) Web site.[83] On July 3, the Xiushui County PFPC reported that 13,731 instances of the "four procedures" were "implemented" in the first half of 2009, including 6,766 tubal ligations, 5,950 IUD implants, and 1,015 abortions.[84] These developments are characterized as a "rapid surge of family planning services" resulting from the creation of an "overwhelming atmosphere" of "strengthened leadership . . . concentrated energy and strengthened measures."[85]

Population Planning in Jiujiang: A Case Study—Continued

• *A propaganda drive aimed at both residents and officials.* July was declared the "All-County Implementation of First-Trimester Abortion and Mid- to Late-Term Abortion Remedial Services Month" at a meeting held for Jiujiang county population planning officials on July 7. Officials were told to "ruthlessly master the implementation of remedial measures, the control of unplanned births, and the improvement of the birth policy compliance rate."[86] Reports issued by Yining, Huanggang, Quanfeng, and Sidu townships described the use of propaganda vehicles, murals, banners, and slogans, and the distribution of leaflets and audio/video tapes to raise awareness about population planning policy.[87] In Huanggang township, the propaganda campaign focused on the "two inspections and four procedures" (*liangjian sishu*), which refer to IUD inspections, pregnancy examinations (the two inspections), IUD implants, first-trimester abortions, mid- to late-term abortions, and sterilization (the four procedures).[88]

• *Rewards and punishments for officials in charge of implementing population policy.* On June 14, Jiujiang county reported that subordinate villages and townships would be ranked according to their performance in meeting population planning goals, and the leaders of the three lowest ranking areas would be required to give a "situational accounting" at the next county meeting and to sign a written pledge.[89] In Quanfeng township, two cadres were dismissed from their positions for "incompetence," but three villages under the township received 2,000 yuan (US$293) bonuses for their population planning performance.[90] In Sidu township, two poorly performing villages came under "focused management" and were threatened with a 5,000 yuan (US$732) fine if their "rectification and improvement" was unsuccessful. The villages that ranked first and second were given a 2,000 yuan (US$293) and 1,000 yuan (US$146) reward, respectively.[91]

• *Rewards and punishments to ensure citizen compliance.* Officials in Huanggang township were told to remind women of the "preferential policies" they would enjoy after undergoing tubal ligation.[92] Almost all jurisdictions, however, also discussed the collection of "social compensation fees" to punish individuals who violated population planning regulations.[93] A July 3 report indicates that Xiushui county in Jiujiang municipality collected over 10 million yuan (US$1.46 million) of social compensation fees in the first half of 2009.[94] The Huanggang township report described fines for women who failed to undergo tubal ligation, IUD implantation, or an IUD inspection/pregnancy examination when required by the policy to do so. The report also stated that the fine would accumulate with each missed deadline until the individual underwent the required procedure.[95]

Population Planning in Jiujiang: A Case Study—Continued

• *A hierarchical accountability system.* According to several reports, cadres and officials are held responsible for their subordinates' performance, with the lowest level officials personally responsible for the population planning policy compliance of residents in their neighborhoods or villages.[96] In Yining township, Communist Party members were also held accountable for the compliance of their relatives, and residents were encouraged to enforce policy with their partners under the slogan, "Your partner is a responsibility, and that responsibility must be fulfilled."[97]

• *Special emphasis on requiring mothers in "two-daughter households" to undergo surgical sterilization.* Local officials consider households that already have two daughters a high-risk group for population planning policy violations.[98] Reports on population planning measures from Jiujiang municipality jurisdictions included the number of tubal ligations conducted on women in "households with two daughters" or "households with daughters and no sons" as a distinct subset of the total number of surgical sterilizations. Xiushui county reported that out of 6,766 total tubal ligations, 296 were of women in two-daughter households.[99] Sidu township reports that officials "pooled their strength to ruthlessly master the implementation of tubal ligation measures," and required that every village "complete their management of the amount of tubal ligations [and specifically] tubal ligations in two-daughter households."[100]

FREEDOM OF RESIDENCE

Introduction

The Chinese Government continues to enforce the household registration (*hukou*) system it first established in the 1950s.[1] This system limits the right of Chinese citizens to choose their permanent place of residence. Regulations and policies that condition legal rights and access to social services on residency status have resulted in discrimination against rural *hukou* holders who migrate to urban areas for work. The *hukou* system exacerbates barriers that migrant workers and their families face in areas such as employment, healthcare, property rights, legal compensation, and schooling.[2] Central and local government reforms in recent years have mitigated some obstacles to equal treatment, but provisions that allow people to change *hukou* status have included criteria that benefit those with greater economic and educational resources or with family connections to urban *hukou* holders.[3] This past year, officials continued to introduce limited measures that relax *hukou* restrictions. The government's restrictions on residence and discrimination in equal treatment, however, continue to contravene international human rights standards.[4]

New Household Registration (Hukou) Policies in 2009

This past year, authorities continued to relax certain *hukou* restrictions for Chinese citizens who meet specific requirements.[5] National-, provincial-, and municipal-level *hukou* measures enacted this past year aimed to promote employment amid the current economic downturn,[6] but excluded most migrant workers who did not have a college education or any special skills.[7] Recent *hukou*-related developments include:

- On January 19, 2009, the State Council General Office issued the Circular Regarding Strengthening Employment for Graduates of Common Higher Educational Institutions (January 19 Circular). The January 19 Circular calls on local governments to lift residence restrictions for university graduates recruited by businesses.[8] At least one Chinese education expert expressed the concern that local officials may not comply with the policy because it is not "compulsory."[9]
- Shanghai issued trial measures in February 2009[10] and implementing regulations in June 2009[11] that allow Shanghai residence permit holders to apply for a permanent *hukou* if they have possessed a Shanghai residence permit for at least seven years, are employed as a mid- to high-level professional in Shanghai, and have no history of violating national or Shanghai population planning policies, among other requirements.[12] At the end of 2007, approximately 4.115 million persons had undertaken the process to obtain a Shanghai residence permit.[13] Xinhua reported in February, however, that only about 3,000 people met the seven-year residence requirement, with even fewer meeting all requirements.[14]
- From December 2008 to late April 2009, at least six municipalities (Hangzhou, Chengdu, Wuhan, Changsha, Chongqing, and Tianjin) issued or expanded existing policies that would

allow residents to register for local *hukou* after the purchase of housing within the city. For example, Hangzhou officials revised their policy to cover a larger geographic area and set the minimum purchase price in that area at 800,000 yuan (US$117,000).[15] One Chinese newspaper raised concerns about the new policy, saying some cities were requiring more than the purchase of a home, including additional educational requirements, and withholding benefits even after the purchase of a home and attainment of a *hukou*.[16]

• In early 2009, officials in Guangdong province were reportedly considering measures to relax *hukou* restrictions, including making it easier for long-term residents or home buyers to apply for permanent *hukou*.[17]

Calls for Hukou Reform

In recent years, Chinese citizens have supported changes in the *hukou* system.[18] In a 2008 China Youth Daily article, one scholar at Tsinghua University argued that reforms to the *hukou* system should be accompanied by educational, employment, healthcare, and social security reforms.[19] A Peking University law professor cited in the same article said that one possible solution to the current system is to discard remnants of China's planned economy, in which the government allocates social resources based on *hukou*, and move China further toward a market economy.[20] Others call for the *hukou* system's complete abolishment. In 2008, Cheng Hai, a Beijing-based lawyer who has filed multiple *hukou*-related lawsuits,[21] submitted a proposal to the State Council, the Ministry of Public Security, and the Beijing municipal government recommending that the government abolish the temporary resident permit system that exists for those without a *hukou*.[22] In 2004, a Beijing Institute of Technology professor submitted a proposal to the National People's Congress which said that the current *hukou* system violates the PRC Constitution.[23]

Liberty of Movement

The Chinese Government continues to impose certain restrictions on Chinese citizens' right to travel that violate international human rights standards.[24] The PRC Passport Law, effective January 2007, articulates some beneficial features for passport applicants, but gives officials the discretion to refuse a passport where "[t]he competent organs of the State Council believe that [the applicant's] leaving China will do harm to the state security or result in serious losses to the benefits of the state."[25] Authorities restrict travel to penalize citizens who express views deemed to be objectionable. This past year, authorities placed a number of Chinese activists under home confinement and surveillance. Some Chinese citizens were prevented from leaving mainland China, while other Chinese individuals were prevented from entering mainland China, Hong Kong, and Macau. Chinese citizens who are mainland residents must obtain travel permits from their local government to leave the mainland, including to enter Hong Kong and Macau, and Hong Kong and Macau residents are required to have a "Home Return Permit" to visit the mainland.[26]

HOME CONFINEMENT AND SURVEILLANCE OF CHINESE CITIZENS DURING POLITICALLY SENSITIVE PERIODS

• Gao Yaojie, an 82-year-old doctor and HIV/AIDS advocate, reported that in early November 2008, one month before World AIDS Day, authorities had begun to step up surveillance of her and her family members.[27] Gao has been under intermittent surveillance since she exposed government-endorsed blood-selling schemes in Henan province that led to thousands becoming infected with HIV in the 1990s.[28]
• Yu Jie, a Beijing-based writer and advocate for Christian groups, said that three days before U.S. Secretary of State Hillary Clinton visited a Beijing church in late February 2009, plainclothes officers told him that he must notify them before leaving his house.[29]
• Zeng Jinyan, a blogger and the spouse of imprisoned human rights activist Hu Jia, said that she was arbitrarily confined to her home during U.S. Secretary of State Clinton's February visit to Beijing.[30]
• In the days following the 20th anniversary of the Tiananmen protests, Ding Zilin, founder of the Tiananmen Mothers, and her family were required to ride in police cars each time they left their house.[31] On June 9, domestic security protection officers reportedly "accompanied" Ding and her husband to a Beijing municipality suburb to rest.[32]
• On June 2, two days before the date of the 20th anniversary of the violent suppression of the 1989 Tiananmen protests, domestic security protection officers arbitrarily confined Pu Zhiqiang, a rights defense lawyer, at a resort in Fengtai district, Beijing, for five days.[33]
• Bao Tong, former senior aide to the late Premier Zhao Ziyang,[34] and his wife, Jiang Zongcao, reportedly were advised by public security officials to leave their Beijing residence on May 25, 2009. Authorities reportedly told Bao that he could return to Beijing after the 20th anniversary of the 1989 Tiananmen protests in early June.[35]

CHINESE CITIZENS PREVENTED FROM TRAVELING TO HONG KONG OR OVERSEAS

• Yunnan province border authorities reportedly stopped Liao Yiwu, a writer from Sichuan province, from leaving mainland China in late April 2009. Liao was traveling to Australia to accept an award from a foundation for a book he wrote on the May 2008 Sichuan earthquake.[36]
• In March and July 2009, public security officials reportedly stopped Zan Aizong, a writer based in Hangzhou, Zhejiang province, from boarding a plane to Hong Kong. On his third attempt to travel to Hong Kong in March, Zan held a valid travel permit for Hong Kong and Macau. As of July 2009, authorities had blocked Zan from leaving mainland China four times since 2007.[37]

CHINESE INDIVIDUALS BARRED FROM ENTERING MAINLAND CHINA, HONG KONG, AND MACAU

• Between June 7 and August 1, 2009, Feng Zhenghu, a Shanghai-based human rights activist and Chinese citizen, was prevented from returning to China from Japan seven times.[38] Feng, who was in Japan temporarily, reported that on his fourth, fifth, and sixth attempts to return to China, representatives from Northwest Airlines at Narita International Airport in Tokyo did not allow him to board flights to Shanghai.[39] On his seventh attempt to return to China, Feng took a flight on a Japanese airline from Tokyo and landed in Shanghai on the night of July 31. He was put forcibly on a flight back to Japan the next morning by Shanghai law enforcement officials, according to the non-governmental organization (NGO) Chinese Human Rights Defenders.[40] As of September 1, Feng was still in Japan, unable to return to China.[41]

• In early 2009, Lu Wenhe, Zhou Jian, and Dan Xuan, who are affiliated with the Independent Federation of Chinese Students and Scholars, a U.S.-based NGO founded after the 1989 Tiananmen protests, were denied entry into China when they attempted to enter the country with valid Chinese visas.[42]

• On June 3, 2009, Wu'er Kaixi, a student leader in the 1989 Tiananmen protests and a Taiwan passport holder, was denied entry into Macau and repatriated back to Taiwan the same day. Wu'er Kaixi reportedly had flown to Macau from Taiwan to turn himself in to the Chinese Government and reunite with his family in Beijing.[43]

• In May 2009, the organizer of an academic conference in Hong Kong said that Chinese officials denied visas to Wang Dan and Wang Juntao, two prominent overseas democracy advocates. Both had been invited to Hong Kong to participate in a panel on the 1989 Tiananmen protests. Wang Dan said that in 2008 authorities also had refused his request to renew his Chinese passport.[44]

• On May 9, 2009, Hong Kong Special Administrative Region border control authorities reportedly barred Dr. Yang Jianli, a democracy advocate, from entering Hong Kong. Dr. Yang reportedly had planned to discuss with other NGOs commemoration activities for the 20th anniversary of the 1989 Tiananmen protests.[45] Yang, who holds a valid Chinese passport, was also denied entry into Hong Kong in August 2008.[46]

• In December 2008, over 20 prodemocracy advocates and lawmakers from Hong Kong were denied entry into Macau. The advocates and lawmakers reportedly were planning to take part in demonstrations against the Macau Special Administrative Region National Security Law.[47] [For more information on this law, see Section III—Developments in Hong Kong and Macau—Controversial National Security Bill Passed in Macau.]

STATUS OF WOMEN

Introduction

During the Commission's 2009 reporting year, Chinese officials continued to pursue policies that aim to protect women's rights. China's sexual harassment and domestic violence-related legal framework saw further improvements. Authorities have also promoted women's employment and taken steps to eliminate gender-based discrimination in the workplace. At the same time, gender-based discrimination in China with respect to issues such as wages, recruitment, retirement age, and sexual harassment remains widespread. The government's implementation of domestic laws and policies related to women's rights falls short of international standards. Problems such as lack of transparency and control over information flows have impeded some of the government's efforts to fulfill these commitments. In the report China submitted in November 2008 as part of the UN Human Rights Council's Universal Periodic Review of China's human rights record, the Chinese Government said that the promotion of equality between men and women "has always been a basic State policy." The report noted the passage of "some 100 laws and regulations" purporting to protect women's rights.[1]

Gender Equality

POLITICAL PARTICIPATION

The Chinese Government has committed to ensuring female representation in government. The 2009–2010 National Human Rights Action Plan states that women should occupy at least 50 percent of government leadership positions in central government ministries, provincial governments, and city governments.[2] Additionally, provisions in two national laws—Article 11 of the PRC Law on the Protection of Women's Rights and Interests and Article 6 of the Electoral Law of the National People's Congress and Local People's Congresses—stipulate that an "appropriate number" of female deputies should serve at all levels of people's congresses.[3] The central government at the same time has yet to fully realize its goal of equal female representation in government. The government as of March 2009 reportedly has only about 230 ministerial or provincial-level female officials.[4] Additionally, only one woman sits on the 25-member Central Communist Party Committee's Politburo, the Party's most powerful decisionmaking body. The Party's nine-member Politburo Standing Committee currently has no female members.[5] For the 11th National People's Congress, which is currently in session, 21.33 percent of the deputies are female, slightly less than the required minimum quota of 22 percent, which was set in March 2007 at the end of the 10th National People's Congress.[6]

ACCESS TO EDUCATION

According to the 1986 PRC Compulsory Education Law, all children and teenagers who are Chinese citizens of the appropriate age have the right and obligation to receive nine years of compulsory education, regardless of their gender, ethnicity, race, family finan-

cial status, or religious beliefs.[7] Education levels in China are rising,[8] and the gender gap in compulsory education is narrowing.[9] The Chinese Government has supported educational policies and programs and has appropriated funding to encourage equal access to education.[10] However, unequal access to education for girls in poorer, rural areas of China remains a significant issue.[11] China Youth Daily reported in February 2009 that some parents in rural ethnic minority areas prefer that girls work rather than go to school, despite government policies promoting and encouraging female education.[12] The article also noted that girls from impoverished backgrounds in ethnic minority areas who face choices between early marriage and migrant work sometimes drop out of school at an early age.[13]

HEALTHCARE

As a state party to the Convention on the Elimination of All Forms of Discrimination against Women and the International Covenant on Economic, Social and Cultural Rights, the Chinese Government has committed to ensuring all its citizens the right to health without gender-based discrimination.[14] While women's health in China has improved in the last 30 years,[15] the government has not yet provided all women and girls with equal access to healthcare and physical and mental treatment. Healthcare and reproductive health services for women in poorer, rural areas of China may be inadequate.[16] Additionally, the female suicide rate in China is high,[17] especially among rural women.[18] According to some mental health experts, the high number of suicides and suicide attempts among rural women can be attributed to economic difficulties and marital and family conflicts, as well as the government's one-child policy and the prevalence of trafficking and abduction of women and children.[19] Easy access to pesticides contributes to the prevalence of suicides among rural women.[20] Inadequate mental health treatment programs may also contribute to suicide among women who suffer from mental illness and depression.[21]

REPRODUCTIVE HEALTHCARE

While women's reproductive health in China has improved,[22] several challenges in this area remain. The Chinese Government has launched public campaigns to raise awareness about reproductive health issues;[23] however, women and girls, especially women in rural areas, continue to have limited access to reproductive health-related care and education.[24] Cultural taboos in China regarding sex and reproductive health issues also may lower the likelihood that women will seek medical treatment for sexually transmitted diseases, including HIV/AIDS.[25] China's male-female birth ratio in the past 30 years has grown increasingly out of balance. In response to government-imposed birth limits and in keeping with a traditional cultural bias for sons, Chinese couples often engage in sex-selective abortion, especially rural couples whose first child is a girl.[26] One Chinese official estimated that by 2020, men between the ages of 20 and 45 will outnumber women in the same age bracket by 30 million.[27] [For more information on the increasing problem of gender imbalance, see Section III—Population Planning—Demographic Crisis.]

Sexual Violence Against Women

The UN Declaration on the Elimination of Violence against Women provides that violence against women may encompass physical, sexual, and psychological violence occurring within the family or general community, or perpetrated or condoned by the state.[28] At the United Nations' Fourth World Conference on Women in Beijing in 1995, China pledged to enact and reinforce "domestic legislation to punish and redress the wrongs done to women and girls who are subjected to any form of violence. . . ."[29] The Chinese Government also pledged to "study the causes and consequences of violence against women and the effectiveness of preventive measures."[30]

SEXUAL VIOLENCE

Several laws in China prohibit and stipulate penalties for sexual violence.[31] Article 2 of the PRC Law on the Protection of Women's Rights and Interests prohibits "discrimination against, maltreatment of, abandonment of, or cruel treatment causing bodily injury or death to, women."[32] Articles 236 and 237 of the PRC Criminal Law provide for the punishment of imprisonment for violence against women and girls, including sexual intercourse with girls younger than 14, rape, and the use of violence or coercion to commit an indecent act against a woman or child.[33] The Chinese Government at the same time has not made available any yearly official statistics on rape or sexual assault in China, leaving the scale of sexual violence in China difficult to gauge.[34] Migrant female workers are especially vulnerable to sexual violence.[35] Young women are also vulnerable. Deng Yujiao, a 21-year-old worker at Xiongfeng Hotel in Badong county, Hubei province, became an Internet sensation after news spread that she stabbed a local official to death and injured another while defending herself against an attempted rape in May 2009.[36] The case unleashed a torrent of sympathy and support for Deng within China and especially on the Internet. It also helped raise public awareness about women's rights and the prevalence of sexual violence against women.[37] The Center for Women's Law & Legal Services of Peking University, for example, issued a statement after the stabbing saying that the case "lay[s] bare China's long history of discrimination against women in a male-dominated society,"[38] and an essay posted on an Internet forum hosted by the People's Daily reportedly called Deng Yujiao's stabbing a "heroic act" and a turning point for women's liberation.[39] Additionally, after the stabbing, five women reportedly staged a demonstration near the Beijing West Railway Station, and another protester, wrapped in white cloth and wearing a face mask, lay on the ground next to a sheet that read: "Anyone could become Deng Yujiao."[40] It is unclear what effect the case will have on the root causes of sexual violence in China, which include societal attitudes toward women, the lack of a coordinated national policy against sexual violence, and the paucity of professional services for victims.[41]

DOMESTIC VIOLENCE

Domestic violence affects one-third of China's 267 million families, according to a November 2008 China Daily article, which cited statistics from the All-China Women's Federation, a Communist Party-led organization.[42] Several laws in China address domestic violence. The PRC Marriage Law was one of the first legal documents in China to refer to domestic violence.[43] Article 46 of the PRC Law on the Protection of Women's Rights and Interests mandates that "the state take measures to prevent and deter domestic violence."[44] Domestic violence offenders may be punished under Articles 234, 236, and 260 of the PRC Criminal Law.[45] Additionally, at least 69 local regulations reportedly contain references to domestic violence.[46] Some Chinese scholars argue that China's current laws and regulations against domestic violence are difficult to implement because they are too abstract or narrow and do not assign legal responsibilities clearly and concretely.[47] In recent years, the government passed or considered legislation and other measures aimed at protecting women from domestic violence. For example:

- On July 31, 2008, the Opinion on Preventing and Deterring Domestic Violence (Opinion) was jointly issued by the Central Propaganda Department, All-China Women's Federation, Supreme People's Procuratorate, Ministry of Public Security, Ministry of Justice, Ministry of Civil Affairs, and Ministry of Health.[48] The Opinion appears to increase the government's responsibility in handling domestic violence cases.[49]
- In March 2008, the Institute of Applied Laws under the Supreme People's Court issued a guidance aimed at ensuring the safety of domestic violence victims who are involved in pending court cases.[50] Since it was issued, the guidance as of June 2009 has reportedly resulted in at least 11 protection orders issued by some of the nine pilot courts that were established to prohibit spousal intimidation.[51] These court-issued protection orders marked the first time that Chinese courts have issued judicial protection orders for personal safety in a civil case.[52]
- In April 2009, the Hunan High People's Court reportedly issued a guiding opinion concerning the strengthening of protections for female victims during domestic violence-related judicial proceedings. The opinion reportedly marks the first time a provincial-level people's court has issued a guiding opinion specifically concerning domestic violence cases. The guiding opinion reportedly stipulates, among other measures, that victims' police and medical records, as well as the appraisal of legal medical experts, can be used in civil lawsuits to confirm the existence of domestic violence.[53]
- In March 2008, a proposal for legislation on deterring and preventing domestic violence was reportedly submitted to the National People's Congress (NPC). By the end of the annual meeting of the NPC in 2009, there were no further developments on the proposal.[54]

SEXUAL HARASSMENT IN THE WORKPLACE

Chinese laws, including the PRC Law on the Protection of Women's Rights and Interests, prohibit sexual harassment, but the crime of sexual harassment is not explicitly included in the PRC Criminal Law.[55] At least four provinces (Jiangsu, Fujian, Henan, and Hebei) and one provincial-level municipality (Chongqing) have reportedly included detailed definitions of sexual harassment in legislation.[56] In June 2008, a court in Chengdu city, Sichuan province, citing the PRC Criminal Law, sentenced a manager to five months' criminal detention, marking the first time someone had been criminally punished for sexual harassment in China.[57] In February 2009, a study group led by three Chinese researchers submitted a draft proposal to the National People's Congress for a law aimed at preventing sexual harassment in the workplace. The proposed law would hold both the government and employers responsible for the prevention and punishment of sexual harassment in the workplace.[58]

Gender-Based Discrimination in the Workplace

Gender-based discrimination in China with respect to issues such as wages, recruitment, retirement age, and sexual harassment remains widespread, despite the government's efforts to eliminate gender-based discrimination and promote women's employment.

WAGES

Gender-based discrimination with respect to equal pay and recruitment remains a challenge for women in China, despite laws prohibiting gender-based discrimination and promoting gender equality in the workplace. These laws include the PRC Law on the Protection of Women's Rights and Interests,[59] the PRC Labor Law,[60] and the PRC Employment Promotion Law.[61] Wage-based discrimination is particularly prevalent among female migrant workers.[62] A 2008 report by the Chinese Academy of Social Sciences indicated that the monthly wage of female migrant workers in China is 910.78 yuan (US$132), nearly 200 yuan (US$29) lower than the average wage of male migrant workers.[63] Women with higher levels of education also face gender discrimination in the workplace. When comparing college graduates with similar educational backgrounds, one 2009 survey conducted by a private company found that men's monthly earnings could be as high as 800 yuan (US$116) more than women's.[64]

RECRUITMENT

Women in China continue to confront gender discrimination while trying to secure employment. According to a Chinese media article, men on average can secure a job interview after submitting 2 to 3 resumes, while women are only able to secure interviews after submitting 8 to 10 resumes. The article also reported that some companies in China have "raised the employment threshold" by adding physical and personal requirements for female candidates. These requirements, which are frequently related to height, appearance, age, marital status, and child-bearing status, are used to "reject" female job seekers.[65] In March 2009, the Bei-

jing Evening News reported that companies at a job fair required women to be "slender and in good disposition," between 5′6″ and 5′7″, and "between 99 and 121 pounds."[66] Similarly, a Chinese news article reported that a document issued by the Hunan provincial government included in its criteria a stipulation that all female civil servant candidates should have "symmetrical breasts."[67] Some government departments, including departments within the judicial system, have also excluded women from hiring in favor of men of a certain height, in order to "reflect the country's image," according to a Chinese expert on employment discrimination interviewed in the People's Daily.[68]

MANDATORY RETIREMENT AGES

The difference in mandatory retirement ages for men and women in China obstructs some women's career advancement, particularly women in senior positions and women with higher educational levels. Currently, retirement ages for male and female government and Party officials are 60 and 55 respectively, while retirement ages for male and female workers in general are 60 and 50 respectively. Because female employees have fewer years to work, they may receive smaller pensions and fewer social security benefits upon retirement. The lower compulsory retirement age for women also contributes to hiring discrimination, as employers prefer to hire younger women rather than women who are over 40.[69] An unsuccessful lawsuit was filed in Henan province in 2006 against an employer for violating the PRC Constitution's principle of gender equality by forcing a senior female employee to retire.[70] In December 2008, the Beijing municipal government announced and sought public comment on a plan to increase the compulsory retirement age from 55 to 60 for female officials who work at the county level or above.[71] In May 2009, the Beijing municipal government issued a revised version of the draft[72] which, unlike the original draft, did not specify whether the retirement age for female officials would be increased from 55 to 60. The revised draft, however, did stipulate that the government's retirement system may not discriminate on the basis of gender.[73] During the period when the measures were open for public comment, an official quoted by a Chinese newspaper reportedly said that one of the reasons Beijing municipality should maintain the compulsory retirement age for female cadres is because the central government had already published measures that permitted female intellectuals to retire at a later age if they met certain conditions.[74]

Hainan's New Court Initiative

In March, the Hainan High People's Court issued a circular to courts at all levels in Hainan province requiring each court to establish a collegial panel of judges dedicated to the protection of women's rights. Hainan was reportedly the first province to order the establishment of such panels. The circular states that at least one judge on each panel must be female, and that the panels will hear cases involving marital disputes, spousal and child support, and the rights of female workers, as well as disputes over compensation for land taken from women who have married out of their villages. The circular further states that for cases involving women's rights and interests that could have a major impact in the jurisdiction, panels should invite representatives from the local state-run All-China Women's Federation to attend the hearing.[75]

HUMAN TRAFFICKING

Introduction

The Chinese Government during the Commission's 2009 reporting year took steps to eliminate human trafficking but continued to fail to address longstanding challenges. Officials in the past year continued to focus on the abduction and sale of women and children. Other pervasive forms of trafficking—including labor trafficking and trafficking for commercial sexual exploitation—received inadequate levels of protection and attention. Despite reiterating their intention to do so, authorities had not yet ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (TIP Protocol). The TIP Protocol contains the first global definition of trafficking, and obligates state parties to criminalize related offenses listed in the protocol.[1] In 2008 and 2009, a number of provincial governments, central government agencies, and Communist Party organizations issued regulations, plans, or opinions to implement the National Plan of Action on Combating Trafficking in Women and Children (2008–2012).

PREVALENCE

China remains a country of origin, transit, and destination for human trafficking and abductions.[2] The majority of trafficking cases are domestic and involve trafficking for sexual exploitation, forced labor, and forced marriage. Women and children, who make up 90 percent of these cases, are trafficked from impoverished or remote areas to more affluent locations, such as provinces along China's east coast.[3] Although the majority of trafficking cases are within China's borders, human traffickers—also called snakeheads—continue to traffic Chinese women and children from China to locations overseas, such as Africa, Asia, Europe, Latin America, the Middle East, and North America.[4] Women and girls from countries including North Korea, Vietnam, and Burma are also trafficked into China, and forced into marriages, employment, and sexual exploitation. Women comprise two-thirds of the tens of thousands of North Korean refugees hiding in China.[5] Although many North Korean women initially enter China voluntarily, it is estimated that up to 70 to 80 percent of these undocumented women become victims of trafficking.[6] [For more information on North Korean refugees in China, see Section II—North Korean Refugees in China.] Forced labor, especially forced child labor, continues to be a pressing problem. In November 2008, cases of forced child labor were reported in Guangdong province, Shanghai municipality, and Hubei province.[7] Child abductions are also pervasive. The Commission noted in 2007 that there had been an increase in infant abduction cases, especially between 2004 and 2006.[8] The Guardian, a London-based newspaper, reported in 2007 that 190 children are abducted per day in China.[9] Overseas news organizations attribute the large number of child abductions in China to the state's one-child policy and Chinese families' preference for sons.[10] Parents, especially those from rural areas in southern China, reportedly purchase boys as family heirs at prices ranging between

3,500 yuan (US$512) and 10,000 yuan (US$1,464), according to international news reports.[11] Girls reportedly sell at a lower price to orphanages who put them up for foreign adoption or to families who are looking for future wives for their sons.[12] Parents of abducted children have initiated their own searches for missing children, or have traveled to Beijing to petition. In October 2008, 40 parents whose children had been abducted reportedly went to Beijing to petition and briefly protested in front of China Central Television's headquarters before police intervened.[13]

EXAMPLES OF HUMAN TRAFFICKING AND ABDUCTION CASES IN 2009

- The Washington Post and Radio Free Asia reported on the presence of underage workers from the Xinjiang Uyghur Autonomous Region—some as young as 14 years old—employed in factories in the interior of China through government-sponsored labor transfer programs. Some sources cited in the articles reported that local officials were coercing children to leave their homes and some sources said authorities used fraudulent methods so the children would appear to meet the working age of 18 stipulated by the factory employing the workers.[14]
- Chinese media reported in March that a woman who had been forced to live in a cave in Inner Mongolia Autonomous Region had been admitted to a psychiatric hospital and reunited with family members. The woman had been sold sometime around 1993 for 4,000 yuan (US$586, according to current rates of exchange) and reportedly had been trafficked and sold several times before then. Chinese news reports and national attention concerning the case prompted authorities to establish a special team to focus on the case.[15]
- During the past few years, children have been forced into prostitution and indentured servitude, and forced to beg,[16] steal,[17] hawk flowers,[18] and work in brick kilns.[19] In June 2009, China's official news media reported that public security officers had freed 17 boys and 3 girls aged 8 to 16 who were forced to steal in Guangzhou city, Guangdong province. Members of a criminal syndicate reportedly would whip the children and burn them with cigarettes if they did not turn in 2,000 yuan (US$293) to 5,000 yuan (US$731) each day.[20]
- In April 2009, the South China Morning Post reported that more than 100 parents in Dongguan city, Guangdong province, protested how authorities handled the alleged abduction of over 1,000 children from the area during the past two years. One parent cited in the article said that 80 percent of the 1,000 child abduction cases reported since April 2007 in Dongguan were never filed by law enforcement officials because of "inadequate evidence."[21]
- Xinhua and China Daily in early July 2009 reported that local officials in Zhenyuan county, Guizhou province, were reporting female infants as abandoned children and putting them up for foreign adoption at a government-run orphanage. In one reported case, local family planning officials took away a female child from a family who had not paid fines related to family planning policy violations.[22]

ANTI-TRAFFICKING EFFORTS

The Chinese Government in some cases during the past year investigated and prosecuted trafficking crimes and rescued human trafficking victims.[23] In March 2009, Xinhua reported that authorities executed Ye Zengxi, the main defendant in a case in which eight boys were abducted in Henan province and sold to rural families in Henan and Shandong provinces.[24] In December 2008, the Guiyang Intermediate People's Court reportedly sentenced He Kaixun to death for his involvement in the trafficking of 80 women and children, the province's largest documented trafficking case of women and children.[25] Authorities also at times acted promptly to prosecute labor traffickers and employers of forced labor.[26] In May 2009, public security officers reportedly arrested 10 men for buying, enslaving, and abusing 32 "mentally handicapped" individuals between the ages of 25 and 45 who had been forced to work in brick kilns in Anhui province.[27]

Authorities also made efforts to prevent trafficking and improve China's anti-trafficking legal framework. After the May 2008 Sichuan earthquake, the government issued a circular that strengthened enforcement measures against child abductions and other related crimes.[28] Thousands of children were orphaned after the earthquake, and Chinese and overseas media reported on babies being stolen from areas affected by the quake.[29] In March 2009, Chinese official media reported on the high demand for abducted children in China and high profits for the criminals who abduct them.[30] In April 2009, the Ministry of Public Security launched an eight-month national anti-trafficking campaign targeting the trafficking of women and girls.[31] The Ministry of Public Security and the Central Committee for Comprehensive Management of Public Security in January 2009 began including anti-trafficking work in their overall evaluation of provincial-level public security bureaus.[32] In June 2009, the National Working Committee on Children and Women, a committee administered by the State Council, reportedly announced a plan to protect members of the "floating population" (*liudong renkou*) who are under 16 years old. Among other protections, the plan calls for a registration management system and would attempt to improve communication channels between childrens' place of origin and destination.[33] Since 2004 several Chinese ministries, the All-China Women's Federation, and the International Labour Organization have partnered on a project, which among other objectives, aims to reduce the vulnerability of women and girls to trafficking.[34]

Officials also took steps this past year to increase international cooperation on the prevention of cross-border human trafficking. In November 2008, a Chinese delegation in Vientiane, Laos People's Democratic Republic, reported on the issuance of three provincial anti-trafficking action plans, as well as on bilateral law enforcement meetings with Burma and Vietnam in February 2008.[35] In late December 2008, an anti-trafficking border liaison office was reportedly opened in Jingxi county, Guangxi Zhuang Autonomous Region, and will promote cross-border anti-trafficking efforts between China and Vietnam.[36]

ANTI-TRAFFICKING CHALLENGES

The legal definition of trafficking under Chinese law does not conform to international standards. Under Article 240 of the PRC Criminal Law, the trafficking of persons is defined as "abducting, kidnapping, buying, trafficking in, fetching, sending, or transferring a woman or child, for the purpose of selling the victim."[37] This definition is narrower in scope than the definition provided in Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which China has not yet signed.[38] The U.S. Department of State's 2009 Trafficking in Persons Report (TIP Report) stated:

> China's definition of trafficking does not prohibit non-physical forms of coercion, fraud, debt bondage, involuntary servitude, forced labor, or offenses committed against male victims, although some aspects of these crimes are addressed in other articles of China's criminal law. China's legal definition of trafficking also does not automatically regard minors over the age of 14 who are subjected to the commercial sex trade as victims.[39]

Using the narrower definition of human trafficking under Chinese law, the Ministry of Public Security reportedly investigated 2,566 cases of potential trafficking in 2008.[40] As the Commission reported in 2008, the disconnect between official statistics and China's current trafficking situation has negative implications for anti-trafficking work in China, including the government's prosecution efforts, protection of victims, and funding.[41]

Authorities have focused their anti-trafficking efforts on cases involving the trafficking and abduction of women and children,[42] while other forms of trafficking, including trafficking for forced labor and commercial sexual exploitation have received less attention and protection despite their prevalence.[43] Chinese authorities also do not provide adequate services for trafficked victims, particularly Chinese citizens trafficked for labor exploitation and trafficked abroad.[44] In addition, key information regarding the government's anti-trafficking efforts is not readily available, making it difficult for the public and other individuals to assess the government's anti-trafficking efforts.[45] Authorities also continue to fail to distinguish between human trafficking statistics and human smuggling statistics.[46] Without a clear division and recognition of the distinction between human trafficking and human smuggling, victims of human trafficking may be considered as criminals who cross borders illegally.[47] In the 2009 TIP report, the U.S. Department of State placed China on its Tier 2 Watch List for the fifth consecutive year, stating "the Chinese Government did not demonstrate progress in combating human trafficking from the previous year (2007), particularly in terms of punishment of trafficking crimes and the protection of Chinese and foreign victims of trafficking."[48]

Provincial-Level Implementation of National Plan of Action on Combating Trafficking in Women and Children (2008–2012)

The State Council issued China's anti-trafficking guideline, the National Plan of Action on Combating Trafficking in Women and Children (2008–2012) (NPA), in December 2007.[49] In March 2009, 29 ministries, central government offices, and Communist Party organizations jointly issued implementation regulations for the NPA.[50] The March 2009 implementation regulations are similar to at least five other implementation plans or opinions issued in 2008 and in early 2009 by provincial-level governments in Guizhou, Hainan, Fujian, and Yunnan provinces, and the Tibet Autonomous Region.[51] The provincial-level plans and opinions, like the NPA, focus on women and children.[52] Among other stipulations,[53] the plans and opinions call for intensifying prevention awareness efforts in locations where "floating populations" gather, such as train stations, bus stations, airports, places for public entertainment, and hotels. The plans and opinions also stipulate that each locality and department should include funds in their annual budgets for the development and implementation of anti-trafficking work. The plans or opinions ban illegal marriage brokerage and employment agencies, as well as their Web sites, and state that organizations or individuals who are associated with the introduction, purchase, or forced employment of trafficked women and children should be investigated and punished according to the law.[54]

Unlike the plans or opinions of other provinces, Yunnan's provincial implementing opinion includes a new measure that allows rescued women who cannot or are unwilling to return home to remain in Yunnan province.[55] Under these new measures, trafficked Chinese women without local household registration (*hukou*) would be able to avoid involuntary repatriation, thus minimizing the risks that traffickers would threaten or "re-traffic" them once they returned home. The measures do not specify whether this new policy is applicable to all women or only to Chinese citizens who are women. If interpreted to apply to all women, including non-Chinese citizens, this policy would comply with the international standard set forth in Article 7 of the TIP Protocol.[56]

North Korean Refugees in China

In 2008 and 2009, conditions for North Korean refugees hiding in China did not improve, and Chinese authorities did not relax their campaign to locate and forcibly repatriate refugees. The Chinese government maintained a high level of border surveillance and carried out periodic crackdowns against refugees and Chinese citizens who harbor them. The Chinese government's repatriation of North Korean refugees contravenes its obligations under the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol.[1] North Korea's chronic food shortages continue to create pressures that push refugees into China in search of sustenance.[2] The North Korean government's treatment of repatriated refugees as criminals and traitors renders North Koreans in China "refugees sur place" under international law, a status that obliges the Chinese government to refrain from repatriating them.[3]

China's Unlawful Repatriation, Punishment in North Korea

In the Commission's 2009 reporting year, Chinese authorities persisted with their policy of enforcing unlawful repatriation of North Korean refugees and criminal punishment of Chinese citizens who provide material assistance or refuge to North Koreans. In August 2009, the Erlianhaote City People's Court in the Inner Mongolia Autonomous Region sentenced Zhang Yonghu and Li Mingshun to 7 and 10 years' imprisonment, respectively, for providing food, shelter, and transportation to 61 North Korean refugees who crossed the Chinese border into Mongolia.[4] In November 2008, Chinese public security agents detained 11 North Korean refugees in Kunming city, Yunnan province, who were fleeing to Southeast Asian countries in search of asylum. The 11 refugees, ranging in age from 19 to 50, were sent from Kunming to a detention facility in Dandong city, Liaoning province, in preparation for their repatriation to North Korea.[5] Also in November, Chinese authorities reportedly repatriated 50 refugees caught in and around Tumen city, Jilin province.[6] In January 2009, a South Korean non-governmental organization reported that a group of refugees repatriated from China between May and July 2008 had been transferred to the Yoduck Labor Detention Center, a prison labor camp in North Korea's South Hamgyong province.[7] Researchers have found that the constant fear of arrest and deportation in China coupled with the experience of persecution and hunger in North Korea cause enormous psychological hardship for North Korean refugees. A recent large-scale survey concluded that many North Korean refugees "suffer severe psychological stress akin to post-traumatic stress disorder." When asked which factors most fuel their anxiety, 67 percent of refugees answered "arrest."[8]

Refugees repatriated from China routinely face the threat of arbitrary imprisonment, torture, and capital punishment upon return to North Korea, and those caught while fleeing North Korea receive similar treatment.[9] On February 2, 2009, inspectors from North Korea's National Security Agency (NSA) reportedly seized a family of three that was attempting to cross the border near Hoeryong city, North Hamgyong province, with assistance from North Korean military personnel and detained another worker from the same

province who was receiving assistance to cross the border from a relative in South Korea.[10] Starting in January 2009, North Korean authorities announced that minors older than 14 years of age would be punished as adults if caught attempting to cross the border.[11] On February 1, a court in Hoeryong reportedly sentenced two middle school students to three years in prison for illegally crossing the border into China.[12] In late March, three female repatriated refugees were reportedly convicted in a "public trial" in Chungjin city, North Hamgyong province, and sentenced to terms of unknown duration in prison labor camps.[13]

As the Commission reported in 2008, North Korean refugees face the dual threat of arrest by Chinese security agents and abduction by North Korean agents operating clandestinely on the Chinese side of the border.[14] Former North Korean agents who have defected to South Korea have confirmed the existence of covert operations to infiltrate ethnic Korean churches in China and to capture refugees by posing as religious leaders or converts.[15] Two American journalists who were investigating the plight of North Korean refugees reported in September 2009 that North Korean security agents detained them on the Chinese side of the border and "violently dragged" them back to North Korea.[16] Repatriated refugees are "brutally interrogated" by the NSA counterintelligence department in an effort to determine if they had contact with South Korean churches or other Christian groups in China.[17] Belief in Christianity is targeted as a political offense in North Korea, punishable by execution or prolonged detention in a prison labor camp.[18] Repatriated refugees are vulnerable to persecution on religious grounds because they often receive assistance from South Korean Christian groups operating along the border.[19] In June 2009, North Korean authorities in Ryongchon city, North Pyongan province, executed Ri Hyon Ok, a 33-year-old mother of three who was accused of distributing Bibles and spying for South Korea.[20]

Border Conditions Worsen

International non-governmental organizations (NGOs) and other observers report that conditions along the Chinese-North Korean border remained restrictive in the past year and that Chinese authorities continued to enforce high-level security measures. Some international media, citing unnamed U.S. officials, reported that starting in September 2008, Chinese authorities increased deployment of the People's Liberation Army (PLA) along the Chinese side of the border in preparation for a "possible influx of refugees due to instability, or regime change, in North Korea."[21] The reinforcement of PLA forces was reportedly accompanied by the construction of additional border fences and security posts at key border locations.[22] Earlier in 2008, Chinese border agents reportedly installed electronic sensors to detect incoming refugees along the Tumen River, which demarcates the border between North Korea and the northeastern corner of Jilin province.[23] In October 2008, Vitit Muntarbhorn, the UN Special Rapporteur on North Korean Human Rights, confirmed that Chinese authorities continue to promise rewards to informants who help public security officials locate North Korean refugees to be repatriated.[24] A February 2009 report from Yanji city, Jilin province, indicates that Chinese public security

agents continue to conduct periodic home inspections in residential areas near the border in order to ferret out North Korean refugees who are harbored by Chinese citizens, most of whom are ethnically Korean.[25] In 2009, as in previous years, the Chinese central government prevented the UN High Commissioner for Refugees from visiting the northeastern border provinces where North Korean refugees reside.[26]

Starting in October 2008, the North Korean government closed its side of the land border with China to all incoming and outgoing traffic for much of the reporting year. North Korean authorities also denied entrance to Chinese visitors for reasons that remain unclear.[27] The closing of the border corresponded to the tightening of security and surveillance of border communities inside North Korea and in ethnically Korean border areas inside China. In November 2008, the North Korean government announced that its National Security Agency (NSA) would take over responsibility for "dealing with the border-crossing problem" from the North Korean police, according to Good Friends, a South Korean Buddhist NGO that conducts research on humanitarian conditions in North Korea.[28] The change was reportedly intended to "increase efficiency" in the criminal prosecution of refugees repatriated from China and those caught attempting to cross the border.[29] In January 2009, the NSA carried out "special investigations of anti-socialist activities" in the border areas and threatened individuals who cross the border to China with sentences of up to 10 years' imprisonment at reeducation centers in North Korea.[30] The NSA inspectors reportedly launched these extensive investigations—which included home inspections, efforts to detect wireless signals from civilian use of mobile phones, and scrutiny of local officials and military personnel—because suspicions arose that some military units were assisting refugees crossing the border.[31]

In 2009, North Korean authorities reportedly issued threats of severe punishment for refugees and those who facilitate their flight from North Korea. In March 2009, officials in North Korea's Chungjin city, North Hamgyong province, reportedly warned local residents that "anyone crossing the river will be prosecuted as a national traitor."[32] Officials reportedly stated that crossing into China or communicating with anyone in China via mobile phones would be grounds for execution.[33] Starting in March, North Koreans traveling in the border region without a pass were reportedly detained and fined.[34] In late May, central officials from the ruling Worker's Party visited the North Korean border city of Hoeryong and issued an ultimatum that "there must be no defectors to China" during the "150-Day Battle," a five-month propaganda campaign leading up to the October anniversary of the founding of the Worker's Party.[35] North Korean authorities stressed that local officials at all levels would be punished or dismissed if any refugees escaped.[36] In July 2009, the NSA reportedly ordered that North Korean refugees' family members who remain in North Korea and reside in border areas must be placed under "strict surveillance" in order to punish "treasonous acts."[37]

Trafficking and Denial of Education

Lacking legal status or economic opportunities in China, North Korean women who cross the border are frequently picked up by traffickers and sold into de facto marriages with Chinese nationals. A February 2009 report estimates that women now comprise more than three-quarters of the total population of North Korean refugees who cross into China.[38] Trafficking networks of Han, Korean-Chinese, and North Korean men operate in areas along the Chinese-North Korean border, where they reportedly use search dogs to seek out North Koreans, including women and girls.[39] Some reports also indicate that businessmen who operate in the area use trade routes along the Yalu River to traffic North Korean women into China.[40] In some cases, North Korean women are forced to work in the sex industry in China, including as prostitutes in brothels and in Internet sex operations.[41] De facto marriages between North Korean refugees and Chinese men are usually a consequence of trafficking in which women are bought, sold, and transferred to their new families.[42] The Chinese government continues to ignore North Korean trafficking victims and refuses to provide them with legal alternatives to repatriation.

Another problem that stems from the Chinese government's unlawful repatriation policy is the denial of education and other public goods to the children of North Korean women married to Chinese citizens.[43] In 2009, non-governmental organization sources within China reported that the number of children born to North Korean women in relationships with Chinese citizens continues to rise, particularly in Jilin, Liaoning, and Heilongjiang provinces.[44] These sources estimate that at least 2,000 to 5,000 of these children now live in the Yanbian Korean Autonomous Prefecture in Jilin province.[45] Chinese law guarantees that all children born in China to at least one parent of Chinese nationality are afforded citizenship.[46] It also decrees that all children who are six years old shall enroll in school and receive nine years of compulsory and free education, regardless of sex, nationality, or race.[47] Local officials contravene Chinese law and violate the Chinese government's commitments under international law when they refuse to provide household registration (*hukou*) to the children of North Korean women in de facto marriages with Chinese citizens.[48] Denial of *hukou* forces these children to live in a stateless limbo.[49] Without legal registration status, most children born to North Korean women and Chinese fathers cannot enroll in school or be admitted to a hospital if they become ill.[50]

PUBLIC HEALTH

Introduction

Minister of Health Chen Zhu acknowledged in January 2008 that all persons had the right to basic healthcare regardless of age, gender, occupation, economic status, or place of residence.[1] The realization of this right, however, remains a challenge for the majority of those living in China. In an attempt to address the issue of healthcare, the government launched a 10-year medical reform plan, which includes promises for reform in the areas of medical insurance, pharmaceuticals, public health services, and public hospitals.[2]

The rising cost of healthcare in China,[3] coupled with demographic changes in the last two decades, including an aging population and migration from rural to urban areas, continues to place vulnerable groups at high risk for health problems and heighten the strain on the healthcare system.[4] Large gaps in access to quality healthcare remain between rural and urban regions.[5]

Discrimination and social stigma against people living with medical conditions such as infectious disease, physical disability, and mental illness remain commonplace.[6] Chinese non-governmental organizations and individuals have become increasingly active in the past year,[7] and continue to play an important role in raising awareness about medical conditions and the rights of those living with them.[8]

China has faced the continued challenge of prevention and control of infectious disease in the last 12 months. Due to insufficient public health services in rural areas and a lack of government transparency and public awareness regarding disease outbreaks, China's rural population has proven particularly vulnerable to the spread of hand-foot-mouth disease, tuberculosis, HIV/AIDS, and other infectious diseases this year.[9] The Chinese government's efforts to prevent and control the spread of influenza A(H1N1)—commonly referred to as "swine flu"—have also prompted discussion about changes in its handling of disease outbreaks.[10]

Healthcare Reform

In an effort to address growing public dissatisfaction with the healthcare system,[11] the State Council passed a large-scale medical reform plan in January 2009, after a three-year drafting period and a month of public debate.[12] The package aims to establish a healthcare system that "fundamentally suits the medical and health needs of the people at many levels" by 2020.[13] In April, the State Council published a corresponding 2009–2011 implementation plan for healthcare reform.[14] The implementation plan promises to spend 850 billion yuan (US$124 billion) to provide medical services to the country's population of 1.3 billion by 2011.[15] The 2009–2011 healthcare reform implementation plan includes the following components:

- A comprehensive, basic medical insurance system that would cover 90 percent of urban and rural populations by 2011;[16]

- The establishment of a new pharmaceutical system to ensure the affordability, availability, and safety of a list of medicines that the central government has deemed "necessary";[17]
- Construction of 29,000 new village and township medical centers in 2009 and 2,000 new county hospitals by 2011;[18]
- Training of nearly 1.9 million healthcare personnel to staff the new village clinics;[19] and
- Increased education on, and attention to, disease prevention and control, maternal health, mental health, and first aid services.[20]

China's decentralized and market-oriented healthcare system has long been plagued with problems. After the establishment of the People's Republic of China in 1949, local governments covered over 90 percent of urban residents' medical expenses, while rural residents also enjoyed access to rudimentary, but in effect free, medical care,[21] including basic treatment for mental illness.[22] With the economic reforms of the 1980s, however, the comprehensive, government-subsidized system was replaced by a decentralized, "for-profit" system. Public hospitals have become commercialized, with doctors prescribing more expensive drugs, tests, and treatments to boost revenues, even when unnecessary.[23] According to an April 2009 Xinhua report, "in many places, this [practice] could account for 90 percent of a hospital's income."[24] An October 2008 study published by the medical journal The Lancet reports that "the average cost of a single hospital admission is now equivalent to China's annual income per head, and more than twice the average annual income of the lowest 20 percent of the population."[25] With deteriorating quality of services and soaring medical costs, the public's trust in, satisfaction with, and usage of the system have declined significantly.[26] According to a report published in March 2009 by the Center for Strategic and International Studies, nearly four out of five farmers in China will likely never visit a doctor.[27] In light of current dissatisfaction,[28] one Chinese finance expert called this new plan "necessary support for developing a harmonious and stable society."[29]

The January 2009 healthcare reform package describes as its aim building a healthcare system in China that will provide "safe, effective, convenient, and affordable health services" to all of the nation's citizens by 2020.[30] The 2009–2011 implementation plan clearly outlines, however, that the central government will not shoulder the cost of this reform alone. Of the 850 billion yuan (US$124 billion) that will be spent by 2011, provincial and local governments will be expected to cover nearly 60 percent themselves.[31] While this is a decrease from the 73 percent that local governments had been expected to contribute previously,[32] concern remains over whether these governments are likely to shoulder their part of the burden.[33] One World Health Organization health policy expert noted with regard to implementation of the plan: "Shanghai and Beijing are moving ahead very quickly . . . [b]ut the poorer regions will struggle to come up with the funds[.]"[34] For poorer provinces in China's west, this fiscal burden may slow the reform process.[35]

Rural Healthcare

Despite the central government's announced plans to increase public spending on healthcare in rural and remote areas, rural residents' access to healthcare remains dependent on local authorities' interpretation, implementation, and management of the program. As reported in a November 2008 study published by the medical journal The Lancet, the Rural Cooperative Medical System (RCMS)—a cooperative medical care program in which farmers are reimbursed for their medical expenses from a fund to which farmers and local and central government entities contribute[36]—was expanded to cover 85.9 percent of the rural population by the end of 2007.[37] However, fund-matching requirements under the current tax system place a large burden on the budgets of local governments when implementing the RCMS.[38] In the case of Ningjin county, Shandong province, for example, the fiscal burden on the local government has increased since the system began in 2004. Even with increased financial investment, however, the program continues to be plagued with problems such as an insufficient number of administrative personnel and a lack of participating medical institutions.[39]

Urban Healthcare

The 2009–2011 healthcare reform implementation plan calls for urban workers' basic medical insurance and urban residents' basic medical insurance to be extended to the entire country by 2011.[40] However, with soaring unemployment rates in urban areas this year due to the economic downturn, access to healthcare for the unemployed has become more urgent. Li Zhong, Vice Director of the Health Insurance Department under the Ministry of Human Resources and Social Security, announced in February that basic medical insurance coverage is expected to be extended to unemployed urban residents in all cities and towns in 2009.[41] This program aims to cover urban children, students, and unemployed adults. Residents with temporary jobs will also be allowed to participate. This basic medical insurance will not yet extend beyond hospitalization and major illnesses to cover more common diseases.[42]

Migrant workers, an ever-increasing portion of China's urban population, still face difficulties due to the stringent household registration system that permits them to seek healthcare only in their hometowns.[43] These difficulties are compounded by migrants' greater likelihood of working in environments prone to occupational hazards and living in unsanitary and overcrowded housing situations.[44] [See Section II—Worker Rights, for additional information on migrant workers.]

Health-Related Discrimination

Despite provisions in the PRC Employment Promotion Law (EPL) which explicitly forbid employment discrimination against persons with disabilities or infectious disease,[45] discriminatory practices remain in job hiring and in the workplace. According to a March 2009 report published by the Beijing Yirenping Center, a non-governmental organization which works to raise awareness

about public health risks and eliminate discrimination against those carrying certain diseases, at least 84 percent of 92 multinational corporations surveyed between October and December 2008 required potential employees to take a Hepatitis B Virus (HBV) test, and 44 percent refused to hire HBV carriers.[46] The EPL aims to promote employment equality, but it does not sufficiently define what actions constitute employment discrimination, nor does it offer specific methods for penalizing these actions. Despite these shortcomings, there have been several legal developments in the past year in which citizens have sought to defend their rights based on the EPL's provisions.[47]

Health-Related Discrimination Cases in the Past Year

- October 2008: In Guangdong province, the Dongguan Intermediate People's Court ruled against a man surnamed Li who sought 500,000 yuan (US$73,162) for "mental suffering" after Nokia cancelled plans to hire him when he tested positive for HBV.[48] The court ruled against the plaintiff on evidentiary grounds.[49]
- February 2009: The Laoshan District People's Court in Qingdao city, Shandong province, accepted the lawsuit of university graduate Yang Hua (alias) whose employment contract with Haier Group was cancelled due to his HBV-positive test results. He requested a formal apology from Haier Group and compensation of 30,000 yuan (US$4,390).[50]
- February 2009: In Zhengzhou city, Henan province, a 24-year-old college graduate filed a lawsuit against a provincial rural credit union for employment discrimination based on his colorblindness. This was the first employment discrimination lawsuit based on colorblindness in China. The plaintiff requested the court to order the credit union to compensate him in the form of 3,000 yuan (US$439) for economic losses and 50,000 yuan (US$7,316) for emotional damages.[51]

While plaintiffs have seen some success in these antidiscrimination lawsuits, government entities continue to create obstacles for those living with disabilities and infectious diseases. Rural migrants living with HIV/AIDS in urban areas face difficulties accessing treatment due to their government-designated household registration (*hukou*) status.[52] [See Section II—Liberty of Movement, for a more detailed analysis of the household registration (*hukou*) system. See Section II—Worker Rights, for a more detailed analysis of migrants living in urban areas. See also Spread of Infectious Disease in this section.] In October 2008, 101 mothers wrote a letter to a member of the State Council complaining that their children were refused enrollment into kindergarten after testing positive for HBV.[53] The chance of HBV infection through daily contact is minimal; however, many provincial governments still retain regulations which prohibit carriers from enrolling in schools.[54]

Mental Health

Radio Free Asia reported in March 2009 that China is experiencing a surge of mental health cases in the climate of a global economic downturn.[55] This surge has further exposed the nation's wide gap in basic mental health services, according to the report.[56]

In 2001, China ratified the International Covenant on Economic, Social and Cultural Rights[57] and has committed itself to ensure "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health," [58] yet the high prevalence and low rate of treatment of mental disorders remain challenges in China, according to several reports. The medical journal The Lancet published a study in June 2009 which estimates that 173 million adults are suffering from mental problems or illness in China and 91 percent of these (158 million) have never received professional treatment.[59] According to a March 2008 report by Channel NewsAsia, China has only one psychiatrist for every 100,000 people.[60] By way of comparison, China has approximately the same number of psychiatrists and psychologists as the country of France, but more than 20 times the population.[61] Despite such a large number of cases, a relatively small amount of central funds is allocated to mental health spending. According to a January 2009 article in Beijing Review, a mere 0.001 percent of the nation's gross domestic product is spent on mental health.[62]

Inequitable allocation of medical services for the mentally ill is a barrier for those in China's rural areas who seek treatment for themselves or their family members. According to the June 2009 study in The Lancet, mental health services are concentrated in urban areas, leaving rural residents with limited access.[63] Several cases in recent years have demonstrated that hospitalization is not considered an option for some families of patients with severe psychological illness. Western and Chinese media outlets have reported several instances of families resorting to confining their mentally ill relatives in cages, often with the knowledge of local officials and police.[64] The Ministry of Health (MOH) has admitted awareness of this method for handling the severely mentally ill in the countryside and has reported making efforts to subsidize medical treatment costs.[65] As of 2007, 70,000 patients with severe mental illness received free medicine, and 6,000 were hospitalized free of charge, according to the MOH.[66] With a healthcare system characterized by the Center for Strategic and International Studies as "understaffed, underfunded, overmatched, and overlooked," [67] however, the prospect of appropriate medical treatment for all Chinese citizens living with mental illness does not appear close at hand.

Some Chinese and international critics link the growing problem of mental disorders in children—including anxiety and depression[68]—with China's strict family planning policy, saying that children who grow up as only children in China face intense pressure from their families to succeed in academics and extracurricular activities and eventually land good jobs,[69] as parents traditionally depend on their children to support them when they grow old.[70] In October 2008, China Daily quoted a Wenhui Daily article stating that "[m]ore than 15 percent of Chinese youth have been found with mental problems,[71] and about 30 million young people under the age of 17 are suffering from depression." [72] [See Section II—Population Planning, for more analysis of the impact of China's population planning policy on children.]

Health-Related Activism

Growing activism among non-governmental organizations and individuals on health issues has played a valuable role in raising awareness about health concerns, including the prevention and spread of infectious diseases and environmental health issues.[73] However, in this reporting year, health-related activism has continued to meet with government opposition.

Official Repression of Public Health Advocacy in the Past Year

- In February 2009, retired judge Huang Yunmin was taken into police custody, interrogated, and criminally detained in Kashgar city, Xinjiang Uyghur Autonomous Region, after advocating for army veteran health benefits. Huang had previously been involved in nuclear testing during his army service in Qinghai province. In 2008, Huang led 17 army veterans to the Civil Affairs Bureau and complained that a 2007 government notice mandating medical tests and benefits for soldiers harmed by nuclear testing had not been implemented locally. The bureau recognized that the notice was applicable to Huang's group, but the group members have so far received no testing or benefits.[74]
- In June, the Ministry of Health issued new regulations for Internet medical information providers which are intended to ensure the accuracy of medical information,[75] but could restrict the free flow of important health information to citizens.[76] The regulations mandate that online medical information providers meet new requirements, such as staff medical expertise,[77] and if providing sex-related medical research information, to allow access only to professionals.[78]
- In July, authorities used China's restrictive publishing regulations to target public health non-governmental organization Beijing Yirenping Center. Citing "suspicion of engaging in publishing activities," Beijing public security officers and officials from the Beijing City Cultural Law Enforcement Agency raided Yirenping's offices and confiscated over 90 copies of the center's "China's Anti-Discrimination Legal Action Newsletter." The officers claimed Yirenping failed to possess the necessary permits to publish the newsletter. Lu Jun, the center's coordinator, told Voice of America that Yirenping had never sold the newsletters and only distributed them internally.[79]

Spread of Infectious Diseases

Reports indicate that curtailing the spread of infectious diseases has become a greater challenge for the Chinese government due to factors such as unreliable official reporting on cases; discrimination against carriers of infectious diseases; and insufficient capacity in rural areas to detect, monitor, and treat infectious diseases in a timely manner. Stories detailing the spread of HIV/AIDS, tuberculosis (TB), Hepatitis B Virus, hand-foot-mouth disease, and influenza A(H1N1)—commonly referred to as "swine flu"—have been prevalent in China's health news this year.

In February 2009, the Ministry of Health (MOH) announced in its annual infectious disease report that HIV/AIDS had become the deadliest infectious disease in China.[80] Statistics for HIV/AIDS cases in China range from the MOH's reported number of 264,302

at the end of September 2008 to as many as 700,000 reported in the December 2007 joint assessment of the State Council and a UNAIDS group.[81] Major obstacles to curbing the spread of HIV/AIDS in China include general discrimination toward individuals living with HIV,[82] cultural sensitivities regarding the discussion of sex and homosexuality,[83] limited access to affordable testing, treatment, and prevention,[84] insufficiently trained medical workers,[85] unreliable official reporting on cases,[86] and inadequate public HIV/AIDS education in rural areas.[87]

China plays an important role in the global fight against TB, as it has 25 percent of the world's drug-resistant TB cases and the second-highest number of total TB infections (after India).[88] In April 2009, the Chinese government and the Bill and Melinda Gates Foundation announced their US$33 million partnership to curb the spread of TB domestically.[89] The five-year program will focus on improving diagnostic methods, drug regimens, and patient monitoring strategies.[90] The establishment of this cooperative initiative between the Chinese government and a Western non-profit to combat drug-resistant TB is a positive development. Other international non-profits, however, have faced barriers in attempting to establish similar programs in China this year. For example, in February 2009, the medical aid organization Doctors Without Borders, or Médecins Sans Frontières (MSF), abandoned its two-year campaign to launch a TB program in the Inner Mongolia Autonomous Region.[91] MSF's former head of mission in China described the organization's negotiations with authorities as "extremely frustrating" and said, "We have to accept that we are blocked from bringing much-needed life-saving medical aid to [multidrug-resistant TB] patients in Inner-Mongolia."

In contrast to their handling of the deadly outbreak of Severe Acute Respiratory Syndrome (SARS) in 2003, Chinese health officials began to take aggressive measures against influenza A(H1N1) even before its reported arrival on Chinese soil in May 2009.[92] These measures included frequent government updates on confirmed cases as well as stringent quarantine and hospitalization. The MOH reports thrice weekly on new, total, and "cured" cases of influenza A(H1N1), as well as the number of new cases that are "imported" and domestic.[93] Authorities' quarantine policies, which mainly target incoming international travelers, are among the most aggressive in the world.[94] One health expert questioned the value of these measures,[95] and another suggested that they "may not be sustainable."[96] The general consensus among many international travelers to Beijing has been that they are, at the very least, problematic.[97] Nevertheless, the MOH claims its quarantine measures have helped the country keep a relatively low rate of infection (2,003 cases as of July 29, 2009) in relation to its population of 1.3 billion.[98]

Despite improvements in government reporting in response to the spread of tuberculosis and influenza AH1N1, problems such as a lack of transparency at the community level and delays in releasing information remain common in China. For example, in March 2009, amid an outbreak of hand-foot-mouth disease (HFMD), an illness common among infants and young children,[99] the MOH fired four officials and punished several others in Minquan county,

Henan province, for their involvement in the falsification of patients' medical histories to cover up the number of cases in the area.[100] Minister of Health Chen Zhu subsequently called for greater accountability in local reporting of cases to increase awareness and preventative measures.[101] HFMD cases spread across 30 provinces in China, killing at least 88 children[102] within the first seven months of 2009 and sickening hundreds of thousands more.[103]

Organ Transplants in China: Developments and Controversies

In August 2009, the Red Cross Society and the Ministry of Health (MOH) announced the launch of China's first organized registration system for organ donations, beginning with a pilot program in 10 provinces.[104] According to Vice Minister of Health Huang Jiefu, quoted in Xinhua's announcement of the launch, the new system is "needed to ensure transplant quality, eliminate organ trading and 'transplant tourism,' and register more donors and protect their rights."[105] As the Commission reported in 2006, Huang acknowledged in July 2005 that the majority of organs used in transplants in China originate from executed prisoners.[106]

In July 2006, following the first allegations of organ harvesting, the government passed a law, which went into effect in May 2007, forbidding the trade of organs without the consent of the donor.[107] The government also banned all organ transplant operations for foreigners in China—previously a large source of revenue for the growing trade—but reports as recent as February 2009 confirm that the practice of "organ transplant tourism" continues.[108] In November 2008, the Beijing-based magazine Caijing reported that Huang Jiefu disclosed at a recent meeting that the MOH believes that "a rather large proportion of organ transplants from live bodies are supplied by sources that are not related by family or friendship ties."[109] The MOH also found "illegal companies" in operation that facilitate the organ trade by falsifying documentation intended to certify a kin relationship between a donor and a recipient.[110]

In the past year, allegations of organ harvesting from nonconsenting Falun Gong prisoners have emerged again, further raising concerns about possible abuses in China's organ transplant industry. In December 2008, the UN Committee against Torture (UNCAT) indicated in its report on China that the UN Special Rapporteur on Torture, Manfred Nowak, had noted "an increase in organ transplant operations coincides with the 'beginning of the persecution of [Falun Gong practitioners],'" and had urged the Chinese government to provide "a full explanation of the source of organ transplants."[111] In an August 2009 interview, Nowak noted that "[i]t remains to be seen how it could be possible that organ transplant surgeries in Chinese hospitals have risen massively since 1999, while there are never that many voluntary donors available."[112] The UNCAT's reference to a relationship between the increase in organ transplant operations in China in the last decade and the unexplained source of organ supply was first documented in a 2006 investigative report (updated in 2007) produced by a former senior Canadian government official and a prominent human rights attorney.[113] The 2006 report also provided transcripts of telephone calls to detention facilities and transplant centers in China, where officials there confirmed the availability of

organs from Falun Gong prisoners.[114] In November 2008, an American think tank researcher who was investigating allegations of organ harvesting in China reported that 16 interviews he conducted with Falun Gong practitioners who were formerly incarcerated yielded details of "inexplicable" medical testing that seemed focused on organ examination.[115] [See Section II—Freedom of Religion—Falun Gong, for more information on the government's campaign against the spiritual movement.]

CLIMATE CHANGE AND ENVIRONMENT

Introduction

Because China signed and ratified the UN Framework Convention on Climate Change and the Kyoto Protocol as a "developing" country, China currently has no formal obligation under the Protocol to reduce its greenhouse gas emissions.[1] The Chinese Government asserts that, as a developing country, China has a right to continue economic development, even at the cost of increased greenhouse gas emissions.[2] In 2007, China surpassed the United States to become the world's top emitter of carbon dioxide.[3] While President Hu Jintao stated that China will "endeavor to cut carbon dioxide emissions per unit of GDP by a notable margin by 2020 from the 2005 level,"[4] the Chinese Government has not agreed to carbon emission caps.[5] A top Chinese climate change policymaker reportedly recently indicated that China's carbon emissions may continue to rise until 2050.[6] While Chinese leaders generally acknowledge the country's top-emitter status, they emphasize that China's per capita emissions are still low relative to industrialized countries.[7] At the same time, climate scientists writing in the Chinese journal, "Advances in Climate Change Research," note that "it is very likely that future climate change would cause significant adverse impacts on the ecosystems, agriculture, water resources, and coastal zones in China."[8]

The Chinese Government has initiated a wide range of measures related to climate change.[9] The government specifically has emphasized its intent to improve energy efficiency and lower energy intensity—the amount of energy expended per unit of gross domestic product.[10] The government's climate policies and programs are driven by several domestic considerations including not only overall economic development and the negative impacts of climate change domestically but also commercial interests, energy security, and environmental concerns.[11] While most discussion and action on climate change has taken place at the national level, provincial leaders are beginning to examine their role in crafting local solutions. As described below, the government's historically weak implementation and enforcement of environmental laws will pose significant challenges to its efforts to address climate change. China's capacity to measure, report, and verify its greenhouse gas mitigation actions remains uncertain.

Without adequate procedural protections, implementation of climate change mitigation policy may place the rights of vulnerable groups, including the rural poor and ethnic minorities, especially nomadic herders, at risk. Hydroelectric dam construction has been accompanied by lack of attention to environmental impact assessment processes mandated by law, and by reports of the infringement upon the fundamental rights of local populations. Planned rapid acceleration of the pace of development of nuclear and hydroelectric projects heightens these concerns going forward. China's planned efforts to increase carbon sequestration in grassland areas shines an additional spotlight on the need to guarantee the rights of nomadic herders who inhabit those areas.

During the Commission's 2009 reporting year, the Chinese Government continued environmental regulatory development, and re-

ported meeting some of its environmental protection goals. Official sources reported several environmental protection successes, including the continued decline of sulfur dioxide emissions and chemical oxygen demand.[12] Regulatory and institutional developments included revisions to or discussion of revisions to the PRC Water Pollution Prevention and Control Law,[13] the PRC Circular Economy Promotion Law,[14] the PRC Renewable Energy Law,[15] the PRC Environmental Administrative Reconsideration Measures and the Planned Environmental Impact Assessment Regulation,[16] as well as the introduction of environmental pollution liability insurance on a trial basis,[17] the establishment of "environmental courts" in a few cities on a trial basis,[18] the establishment of environmental "police" (environmental protection sub-bureaus within the public security bureaus) on a trial basis,[19] and some limited progress toward the development of a "public interest litigation" system.[20] The announcement of a draft PRC Tort Liability Law[21] may in the future improve China's framework for environment-related compensation suits.

Nonetheless, implementation, enforcement, and compliance problems remain a major challenge for China in its efforts to reach its stated environmental goals. During this reporting year, corruption scandals highlighted accountability issues throughout environmental protection bureaucracies. Limitations on citizen access to information, including pollution and related data, hinder efforts to raise environmental awareness, promote public participation, and develop incentives for compliance. Limits on access to remedies for environmental harms, arbitrary enforcement, limited public participation in decisionmaking processes, and selective suppression of citizen demands for a cleaner environment also weaken compliance efforts and contribute to citizen dissatisfaction. Finally, reports indicate that the current economic downturn has had a deleterious impact on the enforcement of environmental laws.

Climate Change

U.S.-China Cooperation on Climate Change[22]

[*Excerpted from Bureau of Public Affairs, U.S. Department of State, "Joint Press Release on the First Round of the U.S.-China Strategic Economic Dialogue," 28 July 2009*]

"The United States and China, being the world's largest producers and consumers of energy, face common challenges and share common interests in combating global climate change, developing clean and efficient energy, protecting the environment and ensuring energy security. During the Strategic and Economic Dialogue held in Washington, DC on July 27–28, 2009, the United States and China negotiated a Memorandum of Understanding to Enhance Cooperation on Climate Change, Energy and the Environment (MOU), led by the Department of State and Department of Energy in the United States and the National Development and Reform Commission in China.

U.S.-China Cooperation on Climate Change[22]—Continued

"The MOU establishes a mechanism for climate change policy dialogue and cooperation to promote (i) discussion and exchange of views on domestic strategies and policies for addressing climate change; (ii) practical solutions for promoting the transition to low-carbon economies; (iii) successful international negotiations on climate change; (iv) joint research, development, deployment, and transfer, as mutually agreed, of climate-friendly technologies; (v) cooperation on specific projects; (vi) adaptation to climate change; (vii) capacity building and the raising of public awareness; and (viii) pragmatic cooperation on climate change between cities, universities, provinces and states of the two countries. . . ."

According to a summary in a Chinese academic article on the Chinese Government's first National Assessment Report on Climate Change completed in December 2007, "significant and various impacts of climate change have been observed in China, showing both positive and adverse effects, dominantly the latter, in different sectors and regions."[23] According to the article, the report indicated that "climate change characterized by warming will impact Chinese social and economic life."[24] Temperature increases could lead to eventual general water resource decline, extended droughts in the north, flooding in the south, glacial melting in the Himalayas leading to interrupted river flows and water shortages,[25] acceleration of the drying of inland lakes and wetlands. It could also lead to intensification of weather patterns, damage to livestock breeding, decline in some crop yields,[26] desertification—which already affects one-third of China[27]—changing distribution and degradation of grasslands,[28] shifting forest distribution, increased frequency and intensity of forest fires and insect and disease outbreaks, and rising sea levels along coastal areas.[29]

Chinese leaders have stated their commitment to addressing climate change and its impacts, emphasizing China's commitment to sustainable development. In May 2009, the Chinese Government issued an international statement setting forth this commitment. In it, China's leaders state:

> Climate change is one of the most serious challenges to humanity in the 21st century and a matter of human survival and the development of all countries, which requires cooperation and joint efforts by the international community. Fully aware of the seriousness and urgency of climate change and with a deep sense of responsibility for the long-term development of mankind, China is firmly committed to sustainable development and . . . [is] taking a series of strong policies, measures, and actions and making unremitting efforts and commendable contribution to addressing climate change.[30]

In June 2009, Chinese media reported that a recommendation was submitted to the Chinese People's Political Consultative Conference in March 2009 to "research and formulate" (*yanjiu zhiding*) a law related to climate change response,[31] which, if drafted and passed by the National People's Congress (NPC), would raise the

profile of climate change and related rights issues in China. On August 27, 2009, the NPC Standing Committee passed a resolution restating China's commitment to "sustainable development."[32] The resolution states that China will ". . . strengthen the capacity to deal with climate change and put forth new contributions in protecting the global climate." The resolution also states "in order to provide stronger legal safeguards for responding to climate change, [China] will at the right time, amend laws relating to environmental protection and responding to climate change, and promptly provide accompanying regulations. In addition, according to conditions, [China] will also designate new laws and regulations." The resolution specifically states China will "strictly implement the Energy Conservation Law of the PRC, the Renewable Energy Law of the PRC, the Circular Economy Promotion Law of the PRC, the Clean Production Promotion Law of the PRC, the Forestry Law of the PRC, and the Grassland Law of the PRC, among other laws and regulations, in accordance with the overall requirement to actively respond to climate change." The resolution also recalls the principle of "common but differentiated responsibilities," contained in the Framework Convention on Climate Change and the Kyoto Protocol, and "opposes using climate change as a pretext for implementing trade protectionism in any form."[33]

The Chinese Government also previously had outlined general goals and regulatory steps to address climate change.[34] Chinese scientists are involved in a variety of scientific research projects focused on climate modeling and impact assessment, and it will be increasingly important to ensure that findings from these studies are incorporated into regular planning processes related to poverty reduction[35] and agricultural yields.[36]

CHALLENGES

Compliance with environmental and energy efficiency laws, policies, and standards remains a hurdle for the Chinese Government's efforts to reduce energy intensity and move China along a lower carbon development path. Building capacity in China to accurately collect and report emission data remains a priority.[37] Lack of attention to environmental impact assessments, the infringement upon rights related to citizen relocation programs, disputes over compensation for land seizures, and suppression of demonstrators has been particularly evident in areas such as hydroelectric dam construction. In addition, China's efforts to increase carbon sequestration in grassland areas by improving the quality of grasslands could contribute to the decline of nomadic culture and lead to infringing upon the rights of nomadic herders.

During this reporting year, decisions by the Chinese Government to rapidly increase nuclear and hydroelectric power sources have raised questions concerning construction quality and waste management safety. According to Reuters, China's National Nuclear Safety Administration director and Vice Minister of the Ministry of Environmental Protection, Li Ganjie, warned in April 2009 that overly rapid construction of nuclear plants could lead to nuclear waste disposal hazards and potential construction quality and operational safety problems.[38] Rapid hydroelectric power plant development also has raised concerns about safety. According to a South

China Morning Post (SCMP) article, a report by the Chinese National Audit Office noted that cutting the construction period of the Xiluodu hydroelectric power plant project on the Jinsha River (a tributary to the Yangtze River) contributed to project quality problems.[39] Between 1999 and 2008, 59 dams in China developed breaches, of which 20 were caused by poor construction quality and the remainder by excessive rainfall.[40] A China Youth Daily report cited by Agence France-Presse stated that approximately 37,000, or 40 percent, of China's dams are in danger of being breached.[41] A report by Reuters and an SCMP reporter, based on a Chinese news source, stated that "[i]mproper construction procedures, shoddy materials and diversion of funds by government departments had contributed to fragile dams."[42] The same report noted, "[l]ocal contractors for dam projects revealed that main construction teams had paid up to 2 percent of the project cost in kickbacks to local officials to win the building contracts."[43]

Lax compliance with environmental impact assessment measures in hydroelectric dam construction projects underscores problems in environmental enforcement. In mid-June 2009, the Ministry of Environmental Protection (MEP) ordered a halt to the construction of dams along the midsection of the Jinsha River.[44] Despite a June 11 MEP order, and the absence of construction work while MEP inspectors visited the two sites, a China Central Television investigation revealed that construction had resumed.[45] The general manager of the Huadian Ludila Hydropower Company reportedly stated that he had never known of a hydroelectric project being stopped due to lack of approval of its environmental assessment.[46] In addition, hydroelectric dam construction in China has been plagued by problematic citizen relocation programs, missing or inadequate relocation compensation, and suppression of citizen protesters.[47] [For information on protests in Ganzi TAP over a hydroelectric project, see Section V—Tibet.]

The Chinese Government, as part of its measures to mitigate and adapt to climate change, has said it aspires to increase healthy grassland areas by restoring degraded and desertified areas by 2010.[48] Government policies that aim to restore grasslands involve, in some cases, erecting fencing and resettling herders, and the effectiveness of current grasslands policies in ameliorating environmental degradation remains in question.[49] [See Section II—Ethnic Minority Rights—Human Rights in the Inner Mongolia Autonomous Region (IMAR) for more information on grasslands policy in one provincial-level area in China.] Resettlement programs sometimes have been compulsory and given rise to disputes over compensation.[50] Authorities in the IMAR continued in the past year to implement resettlement programs and measures to shift herders to other sectors of employment.[51] Herders also have been compelled to abandon grasslands in the name of development projects that shift the use of, rather than aim to preserve, grasslands. Mongol herders in one banner (equivalent to a county-level area) reportedly held demonstrations in summer 2009 protesting the confiscation of grasslands for a mining project.[52] The vulnerability of herders to land use rights infringements has been discussed in the official Chinese media.[53]

Environmental Governance

After three decades of unprecedented economic growth, China's environmental problems now are devastatingly severe. Almost 40 percent of the water in 28 of China's major lakes is "too polluted to be used even for farm irrigation." In urban areas, 90 percent of river water and 50 percent of ground water is seriously polluted.[54] Air pollution levels in China exceed the Chinese Government's own standards in one-third of its cities, and if air quality were measured by European standards, 95 percent of China's cities would not meet the standard's threshold.[55] Chinese officials have taken various steps to research and pass measures to improve rural environmental problems.[56] Nevertheless, major environmental problems in rural areas continue to worsen, including surface water pollution, pollutants from mines, the safety of drinking water, and the relocation of polluting industries.[57] Environmental health problems appeared in news headlines at various times during this reporting year.[58] One Web initiative catalogued 47 "cancer villages," or villages that have had an "unusual number of residents die of cancer," as of mid-May 2009.[59] In August 2009, over 1,300 children in Hunan province reportedly were diagnosed with lead poisoning from a nearby unlicensed manganese smelter.[60] In Shaanxi province in August 2009, 615 out of 731 children in two villages tested positive for lead poisoning, allegedly originating from the Dongling Lead and Zinc Smelting Company plant.[61]

During the 2009 Commission's reporting year, new environment-related regulatory and institutional developments included:

- At the annual meetings of the National People's Congress and Chinese People's Political Consultative Conference in March 2009, 53 of the 518 proposals submitted by delegates involved environmental issues.[62]
- Pilot pollution liability insurance programs continued in "key industries" in several provinces.[63]
- The revised PRC Water Pollution Control and Prevention Law that took effect in mid-2008[64] imposes stricter environmental responsibilities on local governments, strengthens access to information, opens opportunities for experiments with public interest litigation, and strengthens legal liabilities for noncompliance.[65] The law encourages, but does not require, local environmental monitoring agencies to provide data to parties involved in lawsuits.[66]
- Relevant for enforcement and the resolution of environmental disputes, including, in some cases, some with a cross-provincial component, is the establishment of "environmental courts" in Guizhou, Jiangsu, and Yunnan provinces on a trial basis during 2008 and 2009.[67] One scholar of Chinese environmental law stated that the regional "environmental courts" could "have a significant impact on improving environmental enforcement."[68] All of the courts have announced they will accept public interest cases, but there is no precedent to lead these efforts, and some of the courts have been more proactive in taking public interest law cases than others.[69]
- Authorities established the first environmental protection subdivision within the Public Security Bureau (PSB) in late

2008 in Kunming city, Yunnan province.[70] The PSB environmental subdivision is tasked with investigating and enforcing environmental laws in cases involving criminal issues.[71]

- Experts and scholars in China have put forward proposals to establish an environmental public litigation system in order to better protect citizens from environmental harms.[72] Currently in China, only citizens directly harmed by pollution are able to file civil cases,[73] which potentially limits the possibility of protecting the general public from harm caused by pollution.
- The National People's Congress Standing Committee deliberated a draft PRC Tort Liability Law, which potentially could impact China's environmental compensation framework, especially if strict liability provisions reportedly in the draft are included in the final law.[74]

While the Chinese Government has constructed a relatively comprehensive regulatory framework to address the country's environmental problems, compliance remains a significant challenge.[75] Corruption, local governmental protectionism, malfeasance, and lack of accountability impede implementation and enforcement. In addition, the priority attached to economic development has led to compliance challenges that hinder the realization of some of the government's environmental protection goals. Corruption in China's environmental protection sector during the Commission's 2009 reporting year reached to the highest levels of the environmental protection bureaucracy.[76] Problems with official malfeasance in local environmental protection bureaus were discovered across the country. According to Xinhua, procuratorates around China placed 2,637 cases of natural resource and environmental malfeasance, involving 3,060 officials, on file for investigation in 2008. Of these cases, 706 were considered "serious" (*zhongda*) and 528 were considered "very big" (*teda*). Facing public prosecution were 1,529 officials, while 1,143 officials in 954 cases were found guilty of malfeasance.[77] Xinhua reported that, in some cases, malfeasance could be linked to activities that eventually led to environmental harms, such as the case of Yangzonghai Lake in Yunnan province, where serious lead pollution poisoned the drinking water source for hundreds of thousands of people.[78] In another case, the former head of the forestry department in Guizhou province, Zhang Jinlin, was found guilty of illegally granting cutting permits and accepting bribes.[79]

ENVIRONMENTAL COMPLIANCE AND ECONOMIC DEVELOPMENT

Noncompliance with environmental laws, policies, and standards in China is still a major problem for several reasons: the vague nature of laws allows for arbitrary enforcement, the costs of noncompliance are still limited, and the prioritizing of economic growth by officials across China makes environmental protection a lower priority. The People's Daily reported that, despite numerous serious environmental accidents annually, very few people in environmental cases are held criminally liable under the PRC Criminal Law.[80] Utilizing the PRC Criminal Law as the legal basis for imposing criminal sanctions in cases involving environmental harms reportedly is difficult because of the technical nature of such cases.[81]

Compliance issues have blunted the usefulness of the PRC Environmental Impact Assessment Law (EIA Law). Theoretically, the EIA Law is one of the best legal tools available to environmental protection authorities to prevent pollution problems, and environmental authorities have been proactive in rejecting projects.[82] A 2007 investigation of 82 projects in electric power, steel, and 10 other industries in 22 provincial-level areas found that 59 enterprises had committed serious transgressions of the EIA Law.[83] At the beginning of 2007, investigations of over 500 enterprises in 100 city and county industrial parks found 40 percent of the projects lacked followup examination, making it difficult to ascertain if they had implemented the policies and measures required by an environmental assessment.[84]

The National People's Congress Standing Committee (NPCSC) reviewed the EIA Law in June and July 2008, for the first time since it went into effect in 2003.[85] The review uncovered several ways enterprises tried to evade the environmental assessment process, including "built before approval" (*weipi xianjian*), "assessed a small project but built a large one" (*pixiao jianda*), and "approval of a project without an EIA" (*weiping xianpi*).[86] The NPCSC review indicated that implementing agencies claimed to have acted to "avoid severe economic losses" and avoid "negatively impacting local economic development" to shield themselves from responsibility.[87] The NPCSC also found that very few violators of the law, including officials involved, received administrative punishments or were criminally charged for malfeasance.[88] The report also described the lack of standardization of assessment quality across locales, which allows enterprises with outdated technology simply to relocate.[89] In a China Daily article, a senior research fellow at the China Society of Economic Reform was paraphrased as citing local governments' "outdated mindset that higher economic growth trumps all other priorities" as a source of poor enforcement of environmental measures.[90] He also noted that some local and provincial governments have ignored an accountability system implemented in 2007 that links career promotion of government officials to their performance in improving energy efficiency and emission control, and faulted some local governments for not carrying out thorough environmental impact assessments.[91]

ENVIRONMENTAL COMPLIANCE AND THE ECONOMIC DOWNTURN

Leading up to the 2008 Beijing Summer Olympic Games, Chinese officials took steps to showcase areas where there had been progress on environmental issues. During 2009, however, reports indicate that Chinese leaders have given priority to stimulating the economy over environmental protection. While environmental and other government officials have stated that China remains committed to steps to improve the environment,[92] sources cited in one news article reported that the Ministry of Environmental Protection (MEP) has been warned "not to hamper economic growth."[93] Li Ganjie, Vice Minister of the MEP, has expressed concern that provincial and local governments would not be able to maintain environmental protection standards as they carried out the economic stimulus plan.[94] To help stimulate the economy, the MEP adopted a new "green passage" policy that fast-tracks environmental re-

views for development projects. Provincial environmental agencies also implemented their own "green passage" policies. The MEP has recognized, however, that the "green passage" policy has been abused at local levels.[95] The Washington Post in November 2008 quoted the President of the Hong Kong Chamber of Commerce in China as saying that Guangdong provincial officials relaxed enforcement of environmental regulations in late 2008.[96] The report also quoted the research director of the Guangzhou Academy of Social Sciences as saying that "with the poor economic situation, officials are thinking twice about whether to close polluting factories, whether the benefits to the environment really outweigh the dangers to social stability."[97] Some Chinese environmentalists warn that the government may have missed an opportunity presented by the economic downturn to put China on a cleaner growth path and has instead planted the seeds for more over-rapid growth.[98] According to a March 2009 article in China Daily, some National People's Congress and Chinese People's Political Consultative Conference delegates have voiced concerns about the negative impact the economic downturn could have on China's green efforts.[99]

ENVIRONMENTAL RIGHTS IN PRACTICE

The Chinese Government has created a comprehensive set of environmental laws, which provide for some protection of select environmental rights on paper, but protection of environmental rights in practice remains limited. Limitations on citizens' access to information, including pollution and related data, hinder efforts to raise environmental awareness, promote public participation, and develop incentives for compliance. Limits on access to remedies for environmental harms, arbitrary enforcement, limited public participation in decisionmaking processes, and selective suppression of citizen demands for a cleaner environment also weaken compliance efforts and lead to citizen dissatisfaction.

ENVIRONMENTAL INFORMATION

China has gradually increased its capacity to monitor, collect, and make public information on pollution, yet information reporting at the local level lags. Environmental authorities slowly have increased the number of cities included in the annual "pollution control examination survey" of pollution sources, some results of which are released to the public. In 2009, authorities brought the number of cities included in the examination survey to 617, which amounts to over 94 percent of China's cities. The goal is to increase this to 100 percent by 2010.[100] It remains unclear how pollution data below the county level, that is, from townships and villages, are incorporated into figures for the pollution examination survey.

The Ministry of Environmental Protection (MEP) was among the first ministries to issue an Open Government Information (OGI) regulation (MEP OGI Regulation). MEP is required to issue an annual OGI report, and MEP issued its first-year OGI report on time.[101] According to the MEP OGI report, during the first year the MEP OGI Regulation was in force, the MEP received 68 formal written requests for information and 106 "requests for advice" (*zixun*). The ministry "responded" to the 68 written requests, but the report did not indicate how many of the requests were de-

nied.[102] The ministry received two requests for administrative review of OGI decisions and accepted both of them. These requests related to environmental impact assessments and establishing model environmental cities. Both administrative reviews upheld the original decision.[103]

There is some indication that environmental protection bureaus (EPBs) at local levels refused to provide basic information regarding environmental conditions. According to a South China Morning Post article, 86 out of 113 mainland cities refused a request by a non-governmental organization (NGO) for a list of enterprises that were punished by their EPBs in 2008 for violating environmental standards or regulations, some stating that the disclosures would harm local business.[104] The administrative director of the NGO reportedly said that "an [EPB] official said that they could not give us the name list without the approval of the polluters—it's their business secret, and public exposure might hurt their business."[105] The administrative director also noted that "more than a dozen environmental protection bureaus don't even have a website, phone number or e-mail address."[106]

DEVELOPMENT OF THE ENVIRONMENTAL NGO SECTOR

While most Chinese environmental non-governmental organizations (NGOs) are involved in education and encourage participation in conservation and cleanup activities, several also have begun to become involved in environmental policy-related activity, oversight, and rights advocacy. NGOs work in a wide variety of ways and focus on a wide variety of issues, including watershed management, ocean protection, desertification, recycling, energy efficiency, protecting endangered flora and fauna, monitoring of polluters, and to a lesser degree, climate change and legal aid.[107]

Grassroots NGOs face difficulties in China.[108] Most groups have problems raising money and retaining personnel. According to the All-China Environment Federation, it is more difficult for grassroots groups to register as NGOs than it is for government-sponsored groups (often described by experts as government-organized non-governmental organizations, or GONGOs), and that has stunted the growth of grassroots NGOs.[109] Party and government officials have continued to implement policies restricting the operations of many NGOs.[110] [For more information, see Section III—Civil Society.]

Citizens and NGOs are seeking to contribute to China's environmental impact assessment (EIA) processes, and environmental authorities are slowly expanding the legal framework to support citizen participation. In December 2008, two members of the Institute for Public and Environmental Affairs took part in a meeting of experts for the purpose of conducting a technical evaluation of the EIA for the Ahai Dam on the Jingsha (Yangtze) River. This was the first instance when NGO members were formally invited to participate in such a meeting, marking an important step for further expansion of public participation in EIA processes.[111] Typically, the responsibility for choosing citizens to participate in EIA processes rests with the company doing the EIA, which is chosen by the enterprise constructing the project.[112] In December 2008, the Ministry of Environmental Protection issued the Consultation

Draft of the Nuclear Power Plant Environmental Impact Assessment Public Participation Implementation Measures, which outlines specific steps and requirements for public participation in the EIA processes during the siting, construction, and operation of nuclear power plants.[113]

CITIZEN DEMANDS FOR A CLEANER ENVIRONMENT

Despite some improvements in protecting citizens' rights to a clean environment by establishing comprehensive pollution prevention legislation and measures to encourage public participation in EIA processes, longstanding environmental injustices remain largely unresolved. For example, Chinese authorities detained Huang Yunmin on February 10, 2009, because he led a group of 17 fellow veterans that used to work at Lop Nor nuclear testing sites in the Xinjiang Uyghur Autonomous Region (XUAR) to complain at the Bureau of Civil Affairs in Kashgar. The veterans were complaining because authorities did not implement 2007 measures outlining benefits for soldiers who were involved in nuclear testing, including the administration of medical tests and financial benefits if tested positive for work-related health problems.[114] A request by delegates of the XUAR People's Congress to the government and Party for a special hospital to be built to manage the large numbers of people with radiation sickness from testing at Lop Nor reportedly was denied. In addition, a Party delegate named Xingfu requested a study of the high incidence of radiation sickness in Xiaobei county, just inside the XUAR border where testing occurred, and called for a compensation scheme for those affected, but was denied.[115]

While authorities expanded and institutionalized the system of managing citizen complaints about environmental pollution, many problems with this system remain.[116] Citizens who complain about environmental pollution or take steps to protect their environmental rights risk harassment, detention, and other abuses, including retribution from local officials.[117]

- Tang Zhirong of Yongzhou city, Hunan province, was charged with "obstructing official business" and sentenced to 18 months in prison in 2007, but media speculate the real reason for the charge was his complaints regarding pollution from the Suanjie aluminum plant in Shuangpai county, Hunan province, which reportedly emitted pollution linked to damaged crops and high rates of cancer in the area.[118] Tang was released from prison in December 2008; as of May 2009, he reportedly was under strict surveillance.[119]
- On July 9, 2009, Sun Xiaodi, an environmental activist who reportedly exposed pollution problems and illegal activities at the No. 792 Uranium Mine in Diebu county, Gansu province, was ordered to serve reeducation through labor (RTL) for two years for "illegally providing state secrets overseas" and "rumor mongering." The RTL Management Committee of Gannan Tibetan Autonomous Prefecture, Gansu province, also ordered Sun's daughter, Sun Haiyan (also known as Sun Dunbai) to serve 18 months of RTL for the same reasons.[120] Sun Xiaodi's wife, Hu Jianhong, stated that Sun Xiaodi had recently contacted members of human rights organizations and the central government claiming that Diebu county officials

had exaggerated evidence of earthquake damage in the county from the 2008 Sichuan earthquake in order to obtain earthquake relief funds.[121] Sun Xiaodi also reported on pollution problems and expanded production at the No. 792 Uranium Mine.[122]

In some cases, victims of pollution have been able to take legal action on their own to protect their legal rights, exercising what legal scholars in China now refer to as "exercising one's right to environmental self-defense." As described by a Chinese expert in the field, this right has been considered an extension of the "justifiable defense" (*fangweichuan*) protected by the PRC Civil Law (Articles 128 and 129) and PRC Criminal Law (Articles 20 and 21).[123] According to this expert, the right of self-defense in China means that when one's own, another person's, or society's interests and rights are violated, appropriate means may be used to defend those interests and rights.[124] To invoke the "justifiable defense" in environmental cases, several conditions must be met. First, there must be polluting behavior or environmental damage that is in violation of environmental laws. Second, the negative impact of the pollution or damages must be beyond what is considered tolerable. Third, the pollution or damaging behavior must be occurring at the time of citizen action. Fourth, it can only be invoked when the party in violation cannot be dissuaded from stopping the behavior and is unwilling to utilize normal channels of dispute resolution. In addition, the actions taken may not harm a third party, may not be directed toward facilities that are unrelated to the violation, and may not be excessive or cause additional harm. According to the expert, exercising this right also should be a last resort when all other channels of stopping the polluting or damaging behavior have been tried.[125]

Representative cases involving environment-related claims that received national attention include the following:

- According to August 2009 press reports, a chemical plant that opened in 2004 in Shuangqiao village, Hunan province, was likely the source of untreated chemical waste, including cadmium and indium, that probably killed 5 or more people and sickened hundreds of the village's 4,000 residents. After citizens began to get sick and die, villagers complained to officials at the Zhentou township, which administers the village, but officials assured them that pollution was not a problem."[126] Starting in May 2009, food and water had to be transferred to the village, and in July, the chemical plant was closed.[127] On July 29, the villagers "staged a protest for free medical checks and treatment, and compensation for their ruined land." Local authorities detained six of the protesters. The next day, approximately 1,000 villagers surrounded the police station and the government office to demand the protesters' release.[128] Local residents reported that officials warned them not to protest. Local officials were quoted as promising to crack down on further protests, saying that maintaining stability was paramount.[129] On August 6, 2009, Hong Kong media reported that "at least eight journalists investigating deaths" at the chemical plant were detained while interviewing villagers. At least seven villagers remain in police custody.[130]

• In Yingshan county, Hubei province, in June 2008, Ma Dajin and Wan Baiqing were sentenced to four and two years, respectively, for "assembling a crowd and disturbing social order" in relation to protests over an illegal waste dump.[131] Over 2,000 villagers reportedly were affected by the pollution from the waste dump.[132] According to reports, protests erupted after years of utilizing institutionalized channels to resolve the grievances of local citizens.[133] After the June 2008 sentence announcement, Ma and Wan appealed to the Huanggang Intermediate People's Court, which overturned the original verdict because of a lack of evidence and requested that the trial court retry the case. Reportedly, witnesses were afraid to testify in court or even attend the trial.[134] On April 20, 2009, the Yingshan County People's Court rescinded the sentences and gave Ma four years of probation and Wan two years of probation. Ma had already spent over a year in prison.[135]
• On January 12, 2009, the Ministry of Environmental Protection formally approved two environmental impact reports regarding construction of a paraxylene plant on Gulei Peninsula in Zhangzhou city, Fujian province,[136] even though the project has been the subject of citizen protests. From February 28 to March 3, 2008, initially peaceful protests involving thousands of people took place in several fishing towns on the peninsula.[137] At times, the protests turned violent as protesters clashed with public security officials. Several people were injured, and public security officers took approximately 15 people into custody.[138] The fate of these 15 people is unclear.
• In July 2009, thousands of residents of Zhentou township in Liuyang city, Hunan province, gathered to protest chemical pollution from a nearby plant, which reportedly was harming residents' health. The residents had repeatedly utilized the institutionalized complaint system channels to resolve the problem, but their grievances were not adequately addressed by local officials. Security officials encircled the protesters. Promises by government officials to "handle the issue" prompted protesters to disperse; however, police detained two of the demonstrators.[139]

III. Development of the Rule of Law

CIVIL SOCIETY

Introduction

The Chinese Government during the Commission's 2009 reporting year continued to control China's civil society in ways that contravene international standards. Chinese citizens who sought to establish non-governmental organizations (NGOs) and organize around issues deemed by officials to be sensitive faced obstacles, and officials in some cases intimidated, harassed, and punished NGOs and citizen activists. During the past year, authorities revoked the licenses of at least 21 rights lawyers, many of whom had taken on issues officials deemed sensitive. In July, Beijing officials fined and shuttered Open Constitution Initiative (OCI), an academic research and legal assistance organization. Shortly thereafter, authorities detained its cofounder and legal representative, Xu Zhiyong—a law professor and rights defender—and one other OCI employee. International news media reports and human rights groups suggested that these moves may be related to an official clampdown in the run-up to the 60th anniversary of the founding of the People's Republic of China on October 1, 2009.[1] Other Chinese and international experts suggested that these incidents may signal a deeper, longer-lasting effort to rein in NGOs and activists who advocate for legal reform.[2] At the same time, NGO participation and advocacy work in nonsensitive areas continued to expand gradually.

Non-Governmental Organizations Under Chinese Law

Constraints placed on non-governmental organizations (NGOs)[3] by the Chinese Government contravene the right to freedom of association as defined by Article 22 of the International Covenant on Civil and Political Rights, which states that "[e]veryone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests."[4] The Chinese Government requires that all NGOs in China register with and be approved by the Ministry of Civil Affairs.[5] In order to register with the government, all NGOs must first secure a sponsor organization, generally a government department or government-affiliated organization that performs work in an area related to the NGO.[6] At least three national regulations serve as the legal basis for these requirements: the 1998 Regulations on the Registration and Management of Social Organizations,[7] the 1998 Temporary Regulations on the Registration and Management of Private Non-Enterprise Units,[8] and the 2004 Regulations on the Management of Foundations (Foundations Regulation).[9] Although government-registered NGOs all come under some degree of official control, some NGOs have been able to function with some level of independence.[10]

National and provincial authorities in the past decade have issued minor reforms to the legal framework governing NGOs. For example, the Foundations Regulation retained sponsorship requirements but liberalized some controls for certain types of NGOs seek-

ing government registration.[11] Officials have also proposed and suggested publicly that the government eliminate the sponsorship requirement for NGOs seeking to officially register with the government.[12] In 2009, at least one locality (Beijing) reportedly passed measures stipulating that NGOs based in the area will no longer need to obtain a sponsor organization when applying for government registration. In place of the sponsorship requirement, 10 city-level government-organized NGOs (for example, Beijing Red Cross Society) beginning in April 2009 will manage Beijing-based NGOs legally registered with and approved by the Beijing city government.[13]

Due to the difficulties posed by securing a government-affiliated sponsor organization and fulfilling registration requirements, some NGOs opt to forgo government registration or register with the government as a commercial entity. NGOs that forgo registration with the government operate in China without any legal status, while NGOs that register as companies technically are required to pay taxes at higher rates than government-registered NGOs.[14] Government officials have tolerated many NGOs that operate without official legal status;[15] in other cases, officials have labeled unregistered NGOs and "company" NGOs—especially those that raise issues deemed politically sensitive—as illegal and targeted them for closure.[16] In 2007, the Commission reported that since 2005, the government has been auditing the funding sources of domestic NGOs and targeting those that receive funding from foreign sources.[17] In 2009, Beijing tax officials fined Open Constitution Initiative (OCI) 1.42 million yuan (approximately US$208,000), primarily for unpaid taxes on a series of foreign donations made to the organization beginning in 2006.[18] OCI, an academic research and legal assistance organization that has advocated for and worked on several cutting-edge legal issues,[19] was officially registered in Beijing as a company and not as an NGO. Less than a week after imposition of the tax fines, 12 to 20 officials from Beijing's Civil Affairs Bureau visited OCI's office and presented OCI employees with a legal closure notice, which said that the center was being shut down because it was not legally registered as an NGO.[20] The officials also confiscated the organization's computers and materials, including documents from several hundred court cases from the past four or five years.[21]

NON-GOVERNMENTAL ORGANIZATIONS AND CIVIL SOCIETY

The number of government-registered NGOs in China continues to rise.[22] Estimates of the total number of NGOs in China, including unregistered and "company" NGOs, range from 2 million to 8 million.[23] The Commission reported in 2007 that citizens continue to form organizations to address issues such as HIV/AIDS, women's rights, worker rights, religious charity work, and the environment.[24] Civil society participation in nonsensitive legal and policy-making activities during the past several years also appears to have expanded gradually.[25] Commission interviews indicate that capacity-building programs for some NGOs seeking to conduct advocacy-related activities have also increased.[26] In March 2009, Chinese media reported that Beijing officials announced a plan to establish a committee that will institutionalize legal experts' par-

ticipation in legislative processes.[27] Additionally, the Chinese Government in 2008 used the Internet to solicit public comments for drafts of 24 administrative laws and regulations.[28] Municipal governments in Chongqing, Qingdao, Tianjin, Zhengzhou, and Luoyang have also "outsourced" the drafting of legislation, mainly to private law firms.[29] Environmental organizations in recent years have been particularly active in policy and advocacy-related work.[30] In 2006, the State Environmental Protection Administration issued two provisional measures concerning public participation in environmental impact assessment procedures, which were among the first in China to specifically address procedures for public involvement in environmental issues.[31]

Civil society-initiated efforts and participation in politically sensitive issue areas, such as human rights, remained limited due to continued official repression. In December 2008, some drafters and signatories of Charter 08, a document calling for political reform and greater protection of human rights in China, were placed under residential surveillance, detained, or arrested. [See Section II—Freedom of Expression—Suppression of Charter 08.] Officials continued to pressure and harass certain NGOs and individuals working on HIV/AIDS[32] and other infectious disease-related issues;[33] lesbian, gay, bisexual, and transgender rights;[34] anticorruption efforts;[35] and democracy advocacy.[36] In June 2009, authorities prevented NGOs and individuals from commemorating the 20th anniversary of the violent suppression of the 1989 Tiananmen protests. [See Section II—Freedom of Expression—Harassment on Eve of 20th Anniversary of Tiananmen Protests.] Public security officials reportedly interrogated and raided the home of an individual, citing orders from higher level authorities to stop anyone from preparing a human rights report for the UN Human Rights Council's Universal Periodic Review (UPR) of the Chinese Government's human rights record.[37] Among the 48 Chinese NGOs that submitted background documents for the UPR of China in February 2009, only 3 were mainland Chinese grassroots NGOs.[38]

During the summer of 2009, authorities appeared to crack down on NGOs and individuals who worked on politically sensitive legal issues and advocated for legal reform. As of September 1, authorities had revoked the lawyers' licenses of at least 21 rights defense (*weiquan*) lawyers, many of whom had taken on sensitive cases. [For more information, see Section III—Access to Justice.] In July, Beijing officials fined and then shut down Open Constitution Initiative (OCI)—a Beijing-based academic research and legal assistance organization—for not being legally registered with the government as an NGO.[39] OCI, which was described by former rights defense lawyer Teng Biao as a "primary meeting place for China's nascent movement of 'rights lawyers,'"[40] sought to promote human rights, democracy, and rule of law.[41] The center was well known for taking on path-breaking legal issues and cases, such as its investigation into the cause of the Tibetan protests and rioting in March 2008.[42] Twelve days after shuttering OCI, Beijing police detained two OCI employees, including the center's cofounder and legal representative, Xu Zhiyong, a legal scholar and activist.[43]

Philanthropy and Charity

After decades in which the notion of private wealth practically disappeared, philanthropic giving—a centuries-old practice in China—has increased since the late 1970s.[44] In 2008, several natural disasters, including the snowstorm in southern China in early 2008 and the May 2008 Sichuan earthquake, contributed to an unprecedented spike in charitable giving.[45] The government's limited capacity to handle and manage these donations, particularly during the months after the earthquake, exposed flaws in the Chinese Government's charity system and resulted in public demands for charity reform.[46] In May 2009, the Associated Press reported that volunteer activities related to the May 2008 Sichuan earthquake had dissipated, and that government officials had accused some volunteers of "stirring up protests" by student victims' families.[47]

The Chinese Government has enacted at least seven laws and regulations that refer to charity-related issues.[48] Three of these laws, the PRC Corporate Income Tax Law, the PRC Public Welfare Donations Law, and the PRC Individual Income Tax Law, provide tax benefits to companies and individuals who make donations to certain public-interest-oriented organizations and activities.[49] In December 2008 and February 2009, the Ministry of Finance, the State Administration of Taxation, and the Ministry of Civil Affairs (MOCA) issued circulars detailing new qualifications for legally registered NGOs to obtain tax-exempt status.[50] Before 2007, both the Ministry of Finance and the State Administration of Taxation were required to evaluate each NGO applying for tax-exempt status, and only a small number of government-registered NGOs were able to obtain it.[51] Under the new guidelines, provincial-level governments and the central government will be in charge of verifying and approving the tax-exempt status of government-registered NGOs.[52] After the issuance of the December circular, the Beijing municipal government, as of June 2009, reportedly had approved and granted tax-exempt status to 82 government-registered, Beijing-based NGOs.[53] The majority of NGOs in China, including those not registered with the government and those registered in China as companies, will not qualify for the new tax-exempt status.[54] The implications of these new measures remain unclear.[55]

The Chinese Government in recent years has worked on drafting legislation for a comprehensive charity law. In 2006, for example, the State Council included a draft of a new charity law in its legislative plans.[56] The proposed charity law reportedly would support the development of charity-related organizations and encourage more donations from individuals and companies.[57] In June and July 2009, MOCA reportedly held an interagency discussion on a draft of the new charity law that would be submitted to the State Council for consideration.[58] In March 2009, MOCA announced a plan to launch an emergency response information platform, the China Charity Information Center, which will coordinate available resources for charity-related activities, and strengthen collaboration between NGOs and public institutions.[59]

Public Institutions

An estimated 1 million public institutions, or *shiye danwei,* operate in China, employing approximately 30 million people and comprising 4 percent of China's entire labor force.[60] Public institutions are government-controlled organizations that provide public services in the fields of science, education, culture, health, and sports.[61] Some Chinese scholars compare public institutions in China to "public sector" actors in a market economy.[62] Over the past two decades, and particularly since the end of the 1990s, the Chinese Government has reduced the level of financial support that it provides to public institutions.[63] As a result, some public institutions, including hospitals, are now functioning increasingly like private economic actors rather than as Chinese Government administrative units.[64] Some government officials and scholars have proposed structural reforms that would change some public institutions into enterprises, governmental entities, or public-welfare-related organizations.[65] The National People's Congress in March 2008 adopted a plan that reaffirmed this three-pronged approach to transforming public institutions, according to a Chinese media report.[66]

INSTITUTIONS OF DEMOCRATIC GOVERNANCE

Introduction

China's political system remains an authoritarian one-party system. The Communist Party exercises control over government and society through networks of Party committees which exist at all levels in government, legislative, judicial, and security bodies; major social groups (including unions); enterprises; and the People's Liberation Army. During the Commission's 2009 reporting year, the trend toward strengthening Party organizations at all administrative levels and increasing social monitoring and control measures continued, as the Party created additional organizations to "maintain social stability." Chinese leaders also focused in 2009 on the challenges brought about by the global economic downturn.

Chinese officials describe China's political system as a "socialist democracy with Chinese characteristics" under the leadership of the Communist Party[1] that includes "multi-party cooperation" and "political consultation."[2] Multi-party cooperation and political consultation purportedly take place among the Party, the Chinese People's Political Consultative Conference, and eight "approved" minor political parties.[3] During the Commission's 2009 reporting year, Chinese leaders made repeated public statements emphasizing the leading role of the Party, the need to adhere to China's unique style of "socialist democracy," and the impossibility of implementing "Western-style" democracy based on the separation of powers and competing parties. Chinese leaders also implemented a government spokesperson system both to expand and control channels of communication with the public and the international community. Chinese officials emphasized the need for transparency in public budgeting and assured the public that there would be accountability in spending for the 2009 Economic Stimulus Package. Citizens and former government officials, however, have expressed the need for stronger oversight of stimulus package spending. Anticorruption efforts were a priority, and citizens indicated that corruption was one of their top concerns of the year. Whistleblower protections, however, remain inadequate.

The Leading Role of the Communist Party and China's Political Development

Though China has signed and committed to ratify the International Covenant on Civil and Political Rights (ICCPR),[4] China's political institutions do not comply with international human rights standards defined in the ICCPR. Article 25 of the ICCPR stipulates that citizens be allowed to "take part in the conduct of political affairs" and "to vote and to be elected at genuine periodic elections."[5] However, as discussed below, the participation of non-Party members in the conduct of China's political affairs is extremely limited. China's political system is dominated by the Communist Party.[6] The Party has approximately 76 million members (of China's approximately 1.3 billion citizens) in more than 3.7 million grassroots organizations or "branches."[7] Though these organizations reach down into every sector of society, including villages and urban neighborhoods, as well as many enterprises, government

departments, mass organizations, law firms, the People's Liberation Army, and other entities,[8] the Party itself is not an institution that operates on democratic processes. Party organizations extend into affairs at local levels;[9] for example, the Party organizations in urban neighborhoods and residents' committees (*jumin weiyuanhui*) play a role in citizens' political, social, and economic lives. They are active in the provision of services and in the exercise of control, but they are not organs of representative democracy.[10]

At the annual meetings of the National People's Congress (NPC) and Chinese People's Political Consultative Conference (Two Sessions) in March 2009, Wu Bangguo, Chairman of the NPC Standing Committee and the second highest ranking official in the Party, emphasized maintaining the dominance of the Party in China's political development[11] and stated that NPC legislators should maintain "the correct political orientation."[12] In his "Report on the Work of the Standing Committee of the National People's Congress" he stated, "We must draw on the achievements of all cultures, including their political achievements, but we will never simply copy the system of Western countries or introduce a system of multiple parties holding office in rotation, a system with the separation of the three powers or a bicameral system."[13] In June 2009, the Central Party Propaganda Department introduced, through a series of articles in the state-run media, a set of ideas known as the "six why's,"[14] in an apparent effort to guide public opinion. The collection of articles provides citizens with stock answers to the following six questions regarding China's reforms:[15] "Why we must insist on the leading status of Marxist ideology and thus must not engage in ideological pluralization." "Why can only socialism save China, only socialism with Chinese characteristics can develop China, and thus why we cannot engage in democratic socialism or capitalism." "Why we must insist on the people's congress system and thus cannot engage in the 'separation of three powers.'" "Why we must insist on the Chinese Communist Party's system of multiparty cooperation and political consultation, and thus cannot institute a Western multi-party system." "Why we must insist that public ownership of the means of production remains dominant, while a basic economic system with multiple forms of ownership develops side by side, and thus cannot engage in privatization or pure public ownership." "Why we must insist on reform and opening without wavering, and thus cannot backtrack or turn around."[16]

THE PARTY AND GOVERNMENT'S PRIMARY TASKS: CONTROL AND STABILITY

The Party, with participation from some government ministries, is strengthening institutions and mechanisms to "maintain stability."[17] Wen Jiabao said in March 2009 that China "will improve the early-warning system for social stability to actively prevent and properly handle all types of mass incidents."[18] [For more information on mass incidents and citizen grievances and the Party's efforts to manage them, see Section III—Access to Justice.] As part of the heightened focus on social stability, the Party expanded in 2009 the number of "stability maintenance offices" (*weiwen ban*) and stability maintenance work leading groups across the country at the central, provincial, municipal, county, township, and neigh-

borhood levels, and even in some enterprises.[19] Such offices are involved in developing an early warning system for signs of social instability.[20] Part of the early warning system reportedly functions as an intelligence and informant network.[21]

Intraparty Democracy

Isolated experiments with intraparty democracy (also translated as "inner-Party democracy") are taking place around the country with high-level Communist Party support. Before democratic practices are instituted in society more broadly, Chinese writers on the subject maintain, there should be implementation of intraparty democracy.[22] The notion has been a part of the Party's basic institutional design since 1956.[23] Hu Jintao supported efforts in 2005 and 2006, which continue today, to enliven the Party and promote intraparty democracy.[24] In July 2009, a China Times story stated that at the June Politburo meeting, officials passed a measure that will expand the practice of collecting public comments during evaluations of government officials in an effort to deepen intraparty democracy.[25]

In 2008 and 2009, the Shenzhen Special Economic Zone was among a number of localities nationwide that continued to experiment with an intraparty election pilot project called "open recommendation, direct election" (*gongtui zhixuan*) to choose Party committee members and some leaders within local government agencies.[26] In this type of election, candidates are first recommended by rank-and-file Party members, the local Party organization, and most important, the general public.[27] Nominated candidates must be approved by Party organs at the same level after an investigation into their qualifications.[28] Then, general Party members within the government organization review and vote on their favored approved candidates.[29] These favored candidates become the "primary candidates." Party organizations at the next higher level then review these "primary candidates." Those candidates who are approved by the Party organizations at the next higher level become the "official candidates." General Party members within the government organization then vote for new Party committee members and leaders from among the list of "official candidates."[30]

The Chinese People's Political Consultative Conference and the People's Congresses

Though the Communist Party initially viewed the other parties and the Chinese People's Political Consultative Conference (CPPCC) as "mere tools in a united front mobilization strategy," there are some signs of limited change.[31] China's "consultative democracy" includes "multiparty cooperation," in which the Party meets with members of the national CPPCC and the eight "democratic" minor parties under the CPPCC umbrella.[32] In 2007, the CPPCC had 720,000 members, though membership is expected to reach one million in 2010. As of 2007, 60 percent of the members of the CPPCC (including the minor parties) were non-Communist, while the other 40 percent were members of the Communist Party, a fact which calls into question the autonomy of the CPPCC.[33] In

2006, Communist Party authorities issued an opinion on strengthening the CPPCC, which also acts as an intermediary between the Communist Party and Chinese Government on the one hand, and Chinese citizens on the other.[34] The CPPCC is an advisory body that does not exercise legislative power.

At the annual meetings of the National People's Congress (NPC) and the CPPCC in March 2009 (Two Sessions), which lasted approximately two weeks, NPC and CPPCC delegates put forward a range of proposals and expressed dissatisfaction with some governmental and judicial reports. NPC delegates raised 518 motions and proposals at the NPC meeting.[35] Delegates to the CPPCC, however, can only put forward proposals on major political and social issues to the CPPCC for forwarding to the government.[36] For the March 2009 meeting, CPPCC delegates put forward 509 proposals on rural development, 389 on healthcare and medical services, 310 on education, and hundreds more on energy conservation, environmental protection, employment, food and drug safety, and other social issues.[37] Of note is that 505 NPC delegates opposed the Supreme People's Procuratorate work report and 162 delegates abstained; 519 delegates opposed the Supreme People's Court report—nearly one-quarter of the NPC delegates—and 192 delegates abstained.[38] While some citizens reportedly felt a portion of the 2009 NPC and CPPCC motions and suggestions addressed serious issues, some commentators and Internet users attacked other actions as being frivolous.[39] During the Two Sessions, some Chinese citizens made public their own proposals on the Internet, and one critic suggested that all of the delegates' proposals should be made public.[40]

Communist Party members continue to dominate local people's congress elections. Only township and county congresses hold people's congress elections, so higher level congresses are not elected by ordinary citizens. Party members make up approximately 65 percent of township congresses and approximately 70 percent of congresses above this level.[41] A U.S. scholar pointed out that some people's congresses can now "veto government reports, quiz and dismiss officials, and . . . reject candidates selected by the communist party for leadership" (not for the congress itself).[42] Other sources report that some local people's congress elections have been influenced by organized crime and remain particularly susceptible to corruption and vote buying.[43]

Citizen attempts to recall people's congress representatives continue to be vulnerable to official suppression. In March 2009, 31 representatives of approximately 205 citizens from Tianmen, a county-level city in Hubei province, submitted a demand to the standing committee of the city people's congress, requesting the recall of a people's congress deputy, stating that the election was fraught with illegalities.[44] Tianmen City People's Congress cadres reportedly threatened some of the representatives for their recall efforts.[45]

Village Autonomy and Village Committee Elections

Authorities have established "grassroots autonomy" or village elections for "village committees"[46] as "one of the four institutions of the socialist democratic polity,"[47] and such elections have spread throughout China with considerable experimentation. In 2008, 16

provinces adopted the trial practice in villages of "election without nomination."[48] Seven provinces formulated "open village affairs regulations," and some provinces passed administrative regulations guiding village committee meetings or agreed to village management rules.[49] During this reporting year, the Ministry of Civil Affairs completed its drafting work on the revisions of the PRC Organic Law on Villagers' Committees and sent the draft to the State Council for review, and Chinese legislators included it in the National People's Congress Standing Committee's five-year schedule.[50] Problems including corruption, illegal practices, and in some cases, violence, continue to influence village elections.[51] A circular jointly issued by the General Office of the State Council and the General Office of the Communist Party Central Committee noted that "village committee election work in some rural areas is not properly conducted as the bribery situation is grave and seriously harms the impartiality of election[s]."[52]

Citizens have the right to recall village committee representatives, as stipulated by Article 16 of the PRC Organic Law on Villagers' Committees,[53] but in some cases, citizens who initiate the recall process risk official punishment. [For more information about similar problems in people's congress elections, see Local People's Congress Elections in this section.] In 2009, in Fengqiu county, Henan province, villagers believed the village chief election to be corrupt and took their complaints to Beijing, where they met with detention and abuse.[54] In a 2008 case, villagers in Huiguan village, near Tianjin city, began the legal process to recall their village committee, but officials at the township level intentionally impeded and tried to nullify the process.[55] Following the 2008 Beijing Summer Olympic Games, Huiguan village committee members went to Tianjin municipal officials to press their case. When they returned home, police detained seven villagers on the recall committee and held them on suspicion of "disturbing social order."[56]

OPEN GOVERNMENT INFORMATION

In 2009, some Chinese Government agencies and other state-run institutions continued efforts to implement the Regulations on Open Government Information (OGI Regulation). The OGI Regulation was issued as one component of a larger anticorruption effort, and was aimed at increasing public oversight and participation in government, and expanding citizen access to some types of official information. The OGI Regulation went into effect in May 2008,[57] and government departments were required by the regulation to submit their first annual OGI work reports by March 31, 2009. Many government departments and offices did not file reports; many of the reports that were filed were incomplete.[58] The OGI Regulation does not impose penalties upon government organizations that fail to file their annual report with the State Council.[59]

Chinese citizens raised several problematic issues with the OGI Regulation[60] and its implementation, especially governments' seeming hesitation to release information. One Foshan city (Guangdong province) resident, for example, reported that the government failed to respond to his request for information regarding a government program for families who need financial assistance to send their children to kindergarten.[61] A company in Shenzhen

submitted nearly 120 information requests to 40 local and national governmental departments. By mid-March 2009, it had received only two pieces of information from local governments and four pieces of information from central government departments.[62] One scholar's research showed that government departments lost fewer than 1 in 10 court cases involving the OGI Regulation.[63] [For more information regarding citizens' use of the courts to challenge government agencies' refusals to disclose information, see Section II—Freedom of Expression.]

In the runup to the 2008 Beijing Summer Olympic Games, the central government instituted a new government "press spokesperson" system that may open communication channels between the Chinese Government and citizens, but the system may also control the flow and nature of information shared with the domestic public and with citizens of other countries.[64]

TRANSPARENCY IN THE 2009 ECONOMIC STIMULUS PACKAGE

When Chinese officials in November 2008 released information on a four trillion yuan (approximately US$584 billion) economic stimulus package and the revised package details in March 2009, they promised sufficient oversight over the distribution of funds.[65] In November 2008, the Central Discipline and Inspection Commission announced that a new leading group had been established to monitor stimulus package spending.[66] In addition, the Ministry of Supervision, the Ministry of Finance, and the National Development and Reform Commission (NDRC) reportedly dispatched officials to local areas to scrutinize use of funds.[67] Some citizens and former government officials filed government information disclosure requests and wrote open letters to government leaders to express concerns regarding oversight of the stimulus package.[68] According to Xinhua, the China Youth Daily carried an editorial in February 2009 arguing that all Chinese citizens have the right to know how the government is spending the stimulus package funds and commented that citizens had not been able to "find out exactly where the four trillion yuan will be invested from the information already released by the government."[69]

ECONOMIC DATA AND ACCOUNTABILITY

Given the global economic downturn and the growing influence of China's economy on international markets, the credibility of its economic data has become an issue of great importance.[70] Chinese central government authorities have taken some limited steps in the past year to address longstanding and pervasive data reporting problems. A high-level official at the National Bureau of Statistics reportedly lamented in a People's Daily article that unsophisticated accounting methods, systematic double-counting, and deliberate manipulation of data at the local level had harmed the credibility of China's official statistics.[71] In one example, Xinhua reported that the National People's Congress (NPC), while inspecting the implementation of the PRC Law on Statistics, discovered that officials in one town in Chongqing municipality directed statistical workers to add a "0" to the production value of a local enterprise in order to reach the township's annual economic growth target (the enterprise's production value was thus inflated from 3 million yuan to

30 million yuan, (approximately US$439,155 to US$4.4 million).[72] According to one Hong Kong media report, an economist with the NDRC indicated that pressure to meet economic development goals exerted by higher level authorities upon local officials is to blame for data forgery at the local level.[73] To help resolve some of the longstanding data reporting problems, the NPC Standing Committee passed a revision to the PRC Law on Statistics in June that will impose penalties on officials who "intervene in government statistical work and manipulate or fabricate data."[74]

Corruption at all levels of government continues to be a serious problem in China. On Transparency International's 2008 Corruption Perceptions Index, which measures "perceptions of the degree of corruption as seen by business people and country analysts," China received a score of 3.6 on a 10-point scale (10 signifies "highly clean" and 0 "highly corrupt").[75] Premier Wen Jiabao stated in his work report delivered at the annual meeting of the NPC in March 2009 that "corruption remains a serious problem in some localities, departments and areas."[76] In 2008, Chinese procuratorates filed for investigation 33,546 cases of corruption, bribery, dereliction of duty, and rights infringement involving 41,179 officials.[77] The Communist Party and the Chinese Government continue to introduce anticorruption measures and have encouraged citizens to report corruption cases.[78] In February 2009, the Party's Organization Department launched a special Web site and encouraged the public to use the site to report any irregular practices by officials above the county level.[79]

Public Hearings

Some evidence suggests that public hearings in China, which were introduced in 1996 with the promulgation of the PRC Law on Administrative Punishment[80] and have slowly expanded across the country, offer some limited opportunities for public engagement.[81] According to Xinhua, governmental agencies now hold hearings on a variety of issues including administrative fines, public service and commodity price adjustments, government bans, compensation schemes, and some legislative affairs.[82] In November 2008, government leaders in Zhengzhou municipality, Henan province, announced a plan to implement a hearing procedure to reduce the number of administrative fines imposed on citizens.[83] In 2009, central-level authorities called on local officials to utilize public hearings as a means to resolve petitioning (*xinfang*) issues involving petitioners who repeatedly take their complaints to Beijing.[84] Officials in Shizuishan city, Ningxia Hui Autonomous Region, held one such "*xinfang* hearing" in March 2009 regarding compensation in a house demolition case.[85] Citizens have begun to request that authorities hold hearings regarding issues of broad public interest. In June 2009, Beijing lawyer Li Fangping submitted a request to the Ministry of Industry and Information Technology calling for a public hearing concerning the Circular Regarding Requirements for Pre-Installing Green Filtering Software on Computers, issued on May 19, 2009.[86] [For more information on the Green Filtering Software and Chinese society's response to it, see Section II—Freedom of Expression.]

Central government authorities stated they would resolve some of the problems with price setting hearings through revised regulatory measures.[87] In July 2008, the National Development and Reform Commission (NDRC) circulated for public comment draft measures that for the first time required officials to allow journalists to cover, and observers to attend, price setting hearings. This requirement, aimed at improving hearing transparency, is contained in the final version of the Government Price Setting Hearing Measures issued by the NDRC in October 2008,[88] which also sets forth the process for the selection of journalists and observers.[89]

CITIZENS' CALLS FOR POLITICAL REFORM

On the eve of December 10, 2008, the 60th anniversary of the adoption of the Universal Declaration of Human Rights, over 300 Chinese citizens signed and posted online a document titled Charter 08 that calls for political reform and greater protection of human rights in China. Signers included leading intellectuals, lawyers, writers, farmers, and workers. By October 2009, 9,700 people reportedly had signed the Charter.[90] Charter 08 outlines 6 fundamental principles and 19 reforms.[91] Drafters and signatories endorsed the "basic universal values" of freedom, human rights, equality, republicanism, democracy, and constitutional rule.[92] Authorities have arrested, detained, threatened, and put under surveillance many citizens who signed Charter 08, including prominent intellectual Liu Xiaobo, whom public security officials formally arrested on June 23, 2009, on the charge of "inciting subversion of state power,"[93] and Zhao Dagong, whom security officials placed under surveillance in the Shenzhen Special Economic Zone, Guangdong province.[94] Officials have harassed, detained, and arrested many other Charter 08 signatories. [For more information on individuals harassed, detained, or arrested for signing Charter 08, see Section II—Criminal Justice and Freedom of Expression.]

Additional calls for greater political reform originated from other sectors of society. In mid-2008, a debate reportedly began in the Chinese media regarding the applicability of "universal values" to China, including human rights and democracy.[95] In February 2009, a group of 16 retired Party elders, including Li Rui, a former secretary to Mao Zedong, urged Party leaders to take steps toward political reform, loosen media controls, and allow opposition members to organize, arguing that democracy and transparency are needed to navigate the current economic downturn.[96] A scholar on Chinese culture, Ling Cangzhou, published an open letter in February calling for constitutional reform and the end to one-party rule.[97] In August, an article or "talk" (*tanhua*) supporting "political ethics" in China was circulated that, according to the South China Morning Post, was "purportedly written by a retired senior party leader."[98] The "talk" discussed features of China's political system that had not changed in the 60 years since the founding of the People's Republic of China. It brought up the need for "political ethics" in China and the need to allow "ordinary people and social organizations" to express independent political views, "truly participate in the political process," and "exercise oversight over the governing party."[99]

Officials harassed or briefly detained other Chinese citizens for their alleged political actions, beliefs, and writings. Security officials detained or arrested individuals for monitoring village or people's congress elections. Election specialist Yao Lifa was monitored closely by authorities during the run-up to the 20th anniversary of the violent suppression of the 1989 Tiananmen protests.[100] Authorities in Pudong district, Shanghai city, reportedly detained Yao in mid-July because he was monitoring elections for the Pudong People's Congress.[101] Among those repeatedly harassed for their political views were democracy advocates in Guangdong province, some of whom reportedly signed Charter 08.[102] Also among those harassed by authorities for their political beliefs was Hubei democracy advocate Hu Junxiong.[103] Authorities have interfered in Hu's efforts to make a living on several occasions since 2004, including in March 2009, when Hubei provincial security officials took Hu from his place of work in Beijing back to Hubei, where local authorities warned employers not to hire Hu.[104]

Other Chinese citizens were detained or sentenced to prison terms for activities memorializing the 20th anniversary of the violent suppression of the 1989 Tiananmen protests or for organizing alternative political parties. In one example, the Changsha Intermediate People's Court convicted Hunan democracy activist Xie Changfa in September 2009 on charges of "subversion of state power," a crime under Article 105 of the PRC Criminal Law,[105] and handed down a harsh sentence of 13 years' imprisonment and 5 years' deprivation of political rights.[106] According to Human Rights in China (HRIC), "[t]he court's decision stated that Xie Changfa illegally set up the China Democracy Party (CDP)." HRIC reported that Xie was detained in June 2008 for having organized the "Hunan Preparatory Committee of the China Democracy Party," drafted the CDP's charter, and helped prepare the first CDP national convention. The court reportedly also said that Xie had written articles that he hoped to distribute for the purpose of overturning the state's power.[107] In another case, Zhou Yongjun, a U.S. green card holder and leader of the 1989 Tiananmen protests,[108] was reportedly transported from Hong Kong to the mainland where Chinese authorities then detained him in Luohu district, Shenzhen Special Economic Zone in September 2008.[109] According to Radio Free Asia, paraphrasing Zhou's lawyer, the Hong Kong Immigration Department took Zhou Yongjun's passport and transported him to Shenzhen, saying some people on the mainland "wanted to talk to him."[110] In December, he was reportedly secretly moved to Shenzhen's Yantian district detention center.[111] In May 2009, authorities notified Zhou's family that he was in the Suining municipal detention center in Sichuan province.[112] Authorities first reportedly accused Zhou of spying and political crimes, and then later charged him with financial fraud.[113] As of the end of September, as reported by Radio Free Asia, Zhou's lawyer, Chen Zerui, said officials had postponed Zhou's trial many times, which may mean authorities have insufficient evidence to prosecute.[114] [See Section II—Freedom of Expression for additional cases.]

COMMERCIAL RULE OF LAW

Introduction

As a member of the World Trade Organization (WTO), China is bound by commitments outlined under both the WTO agreements and China's accession documents.[1] As a WTO member, China must abide by obligations that generally prohibit it from discriminating among WTO members, as well as discriminating between foreign and Chinese goods, services, and intellectual property rights. Further, China must further transparency by adhering to obligations to promptly publish all laws, regulations, judicial decisions, and administrative rulings relating to trade in goods, services, trade-related intellectual property rights, or the control of foreign exchange. China's uneven implementation of its WTO obligations has led multiple WTO members, including the United States, to file WTO disputes against China.[2] In a case brought by the United States, the WTO ruled in July 2008 that China's tariffs on auto parts imports violated WTO rules. On August 28, 2009, China announced that it will scrap the higher tariffs starting September 1, 2009.[3] Recently, however, there have been improvements in some areas such as contract enforcement, insurance, and antimonopoly, as noted below. At the same time, new developments this year in areas such as food and product safety, telecommunications, intellectual property, and economic crime are potentially problematic, as described below. The Commission will continue to monitor and report on issues of concern in the coming year.

Contract Enforcement

Contract enforcement in China remains problematic. While there have been some well-known cases where foreign parties have prevailed against Chinese counterparties, the coverage of these cases implies that the foreign litigant's success is not the norm. Lawyers representing foreign clients who contract with Chinese parties in China have informed the Commission that they frequently advise their clients to provide for arbitration of contractual disputes, preferably outside China, since China is a member of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Nonetheless, there is some evidence of limited improvement in the environment for judicial enforcement of commercial contracts, at least in some large urban areas of China during the last year. The World Bank publishes "Doing Business" rankings annually.[4] The 2009 Doing Business Project report ranks 181 countries by "ease of doing business," and covers the period June 2007 through May 2008. China is ranked 83rd out of 181 countries. In the "Enforcing Contracts" subcategory, however, China is ranked 18th, ahead of Australia (20), Japan (21), the United Kingdom (23), Canada (58), Brazil (100), and India (180). The United States is ranked sixth in this subcategory, and Hong Kong is ranked first.[5] Moreover, lawyers representing clients on the ground in China report that contracts that are written to follow closely the letter of the PRC Contract Law can be enforced effectively in courts in urban areas.[6] Some of the problems that people outside of China associate with poor contract enforcement in China stem from dis-

putes arising from contracts that are poorly drafted or that are enforced outside of urban areas.[7] Some rulings in Chinese contract disputes that may appear illegitimate outside of China in fact may be based on principles of equity as legitimately applied by judges in China. In some circumstances, Chinese courts may be required to rely on principles of equity (*gongping yuanze*). A new interpretation issued by the Supreme People's Court, for instance (see below), specifically instructs courts to rely on principles of equity in particular circumstances.[8] According to one lawyer practicing in China, "[I]f a Chinese company is late on a contract because its own supplier was late in delivering it a necessary component part, the Chinese court may very well excuse the delay."[9] Enforcement according to principles of equity should not be confused, however, with nonenforcement.

NEW SUPREME PEOPLE'S COURT INTERPRETATION

An interpretation issued by the Supreme People's Court (SPC) in February 2009, which took effect on May 13, 2009, may further contribute to effective contract enforcement.[10] The SPC's new Interpretation Related to Questions Arising in Connection With Implementation of the PRC Contract Law (Interpretation) clarifies terms that have been the subject of much debate since the Contract Law was adopted in 1999 and removes ambiguity on some essential points.[11] For example, the Contract Law clearly provides that oral contracts are valid and enforceable.[12] Chinese courts, however, have tended to limit enforcement of oral contracts. With this Interpretation, the SPC pushes lower courts to enforce such contracts.[13] In addition, the Contract Law includes several restrictions relating to form contracts.[14] These provisions play an important role in China because Chinese companies frequently use form contracts. Foreign parties who ignore these provisions find their contracts unenforceable in Chinese courts. The new Interpretation clarifies the rules to which form contracts must conform and then makes clear that a form contract that meets the enumerated requirements shall be regarded as a valid contract.[15] The Interpretation instructs lower courts not to dismiss form contracts out of hand.

JUDGMENT DEBTOR DATABASE

In part to mitigate risks of doing business in China, the SPC on March 30, 2009, made available to the public a nationwide database of judgment debtors.[16] Companies, especially foreign companies, frequently transact with companies in China about which they know little. When these companies encounter legal problems that go beyond straightforward questions of contract enforcement, they must rely on a legal system still not fully equipped to protect their rights and business interests.[17] The online, searchable database addresses such problems by making available to the public a listing of all defendants against whom courts have issued orders to pay money damages or other compensation for nonperformance of specific acts that remain unpaid. The database is accessible online at *http://zhixing.court.gov.cn.* According to China Daily, quoting Jiang Bixin, a vice president of the SPC, the database at its inception listed 5.24 million judgments handed down by 3,484 Chinese courts.[18] Records are searchable according to name (company or in-

dividual), business registration number (in the case of entities registered in China), or identity card number (in the case of individuals). Records show the name of the judgment debtor, corresponding business registration or identity card number, name of the court, date and number of the judgment, and status of the judgment. According to China Daily, Jiang Bixin said that "[t]he failure of the courts to enforce verdicts on civil cases has been a significant challenge for the country's judicial system, with many litigants possessing limited awareness of legal proceedings and refusing to fulfill their legal obligations." [19] The failure of the courts to enforce verdicts also may be attributable, at least in some cases, not only to lack of knowledge on the parts of litigants concerning their legal obligations, but to corruption and local protectionism.

On the whole, the database appears to be a practical application of the principles of accountability and disclosure to address the difficulties that commercial entities encounter when attempting to make informed choices about the selection of business partners. Moreover, the database creates reputation effects that could translate into greater incentives for debtors to comply with executable judgments issued by Chinese courts. Without the database, in order to determine whether a potential business partner or acquisition target has been involved in litigated disputes, companies face the costly task of searching individually from court to court. The database reduces the costs of making such determinations. The information available in the database also may be used by companies doing due diligence evaluations, potentially reducing the costs of completing such evaluations. Commission staff found the database to be simple to use and easily searchable.[20]

The database may alter the dynamics of "forum shopping" in China.[21] It remains to be seen whether the new database will result in some courts developing "good" reputations based on the number of collected judgments the database associates with them, and other courts developing "bad" reputations based on high numbers of uncollected judgments. This in turn raises the question of whether courts now will have incentives to issue enforcement orders only in cases where successful collection is more likely and to avoid issuing orders in cases where enforcement may prove difficult. If, as a matter of public policy, Chinese authorities wish for individual courts and their personnel to be judged by the public or by higher authorities according to their reputation for competence in achieving substantive outcomes (in this case, effective debt collection or settlement, e.g., by mediation), then the database may produce effects that are positive according to such criteria. If, however, the objective is for courts to issue orders on the merits, independent of the actual likelihood of collection, then the database may produce effects that are detrimental according to these criteria.

Economic Crime

The criminalization of commercial disputes in China is rooted in the PRC Criminal Law.[22] Chapter III of the Criminal Law (Articles 140 to 231) deals with "Crimes of Disrupting the Order of the Socialist Market Economy," including "Crimes of Disrupting the Order of Administration of Companies and Enterprises." [23] Lawyers

who specialize in this practice area in China report that "Crimes of Producing and Marketing Fake or Substandard Commodities" may include, for example, a dispute in which a buyer contends that defects in its products are attributable to substandard material supplied by a vendor, while the vendor contends that defects are attributable to problems with the buyer's processing of the material supplied by the vendor.[24] "Crimes of Financial Fraud" or "Crimes of Disrupting Market Order" may include, for example, a dispute where a company pays a consultant to produce a multi-part study, the company is not satisfied with the first installment, and the consultant agrees to forgo the balance of his fees, but does not refund the deposit.[25] In the United States, transacting parties frequently deal with such problems through private civil actions. In China, however, business disputes are at least equally likely to become subject to criminal law enforcement.[26]

The range of economic crime in China is broader than in the United States, and Chinese companies have been known to pursue criminal complaints in their business dealings more frequently than their counterparts in other systems, such as the United States.[27] Lawyers who specialize in this practice area in China also report that,

> [First,] Chinese judges are more comfortable in handing out criminal sanctions than they are in deciding the merits of private commercial activity, and plaintiffs are more comfortable in the role of beseeching the police, the prosecutors, and the courts for justice instead of pursuing justice on their own. Second, there is an economic incentive. If the state pursues the claim, the offended person or company saves on the expense of hiring a lawyer. Third, as part of the criminal action, the state will seek to force the defendant to pay redress to the offended party. In China, the state is much more likely to obtain assets from the defendant for payment of redress than is a private plaintiff.[28]

The recent detentions of four Rio Tinto executives have drawn an international spotlight on "economic crimes" and the criminalization of commercial disputes in China. The Chinese Government maintains controls over market information, and independent market analysis by foreign companies in China is strictly controlled. Difficulties in obtaining reliable market data present significant challenges to doing business in China. The Rio Tinto case underscores the point.[29] The Rio Tinto employees initially were accused of theft of state secrets, which would have allowed the government to prosecute the case in secret. Subsequently, the four were formally arrested on suspicion of commercial bribery and infringement of trade secrets. [See box titled Rio Tinto below and box titled Proposed Revision of State Secrets Law in Section II—Freedom of Expression.] The Commission will continue to monitor and report on the implications of this case for trends in the criminalization of commercial law in China, and for China's commercial rule of law development.

Rio Tinto

In July 2009, Chinese authorities detained four China-based employees of the Australian mining giant Rio Tinto—one Australian citizen and three Chinese nationals—on suspicion of violating China's state secrets laws. China is the world's largest importer of iron ore, and Rio Tinto reportedly is the world's second largest producer. The Chinese Government closely regulates the import of iron ore into China by China's state-controlled steel industry, negotiating the benchmark price on iron ore imports on an annual basis, and the detentions took place during this negotiation process. The case quickly was raised to a diplomatic level by Australia's prime minister, Kevin Rudd, and U.S. Secretary of Commerce Gary Locke told the Chinese Government that foreign executives working in China were concerned.

Perhaps in reaction to the negative response to the case internationally, in August 2009, the Chinese filed formal charges against the four for commercial bribery and infringement of trade secrets. While these formal charges of economic crimes are serious, they are not as draconian as China's state secrets laws, under which the four would have faced closed-door trials and harsh penalties. The case highlights the potential interrelationship between economic crimes and the interests of different government departments and state-owned enterprises, be they domestic industry players or departments such as the state security bureaus or Ministry of Commerce.

Food Safety and Product Liability

Product quality[30] and food safety emergencies continue to produce high-profile judicial decisions and to prompt changes in Chinese law. On January 22, 2009, Chinese courts issued decisions in criminal cases related to a food safety crisis during 2008 involving the Sanlu Group, and the contamination, sale, and distribution of tainted milk products.[31] Court decisions included capital punishment for two defendants, a suspended death sentence for one, and life imprisonment for another three (including Sanlu's former chairman, who also was fined nearly 25 million yuan (US$3.7 million)). As the Commission reported in its 2008 Annual Report, Xinhua announced the arrest of individuals involved in the contamination, sale, and distribution of tainted milk products on September 15, 2008.[32] However, a Chinese court accepted the first civil lawsuit seeking compensation in connection with the 2008 crisis only on March 25, 2009.[33] In the interim, as the Commission has documented, authorities pressured lawyers and prevented courts from accepting or handling civil cases related to the tainted milk crisis.[34] The Sanlu decisions show that, when the potential negative impact on China's international image, perceived domestic stability, and economic development is significant, Chinese courts are likely both to impose severe criminal sentences and to prioritize punishment over compensation. [See Section III—Access to Justice.]

China's ongoing food safety and product quality problems do not stem from a failure to legislate on the issue but rather from duplicative legislation and ineffective implementation. In theory, the PRC General Principles of Civil Law,[35] PRC Product Quality Law,[36] PRC Consumer Rights Protection Law,[37] and the new PRC

Food Safety Law[38] allow parties affected by defective products to seek compensation for personal injury and damages. The PRC Criminal Law imposes criminal punishment for producing or knowingly selling fake, counterfeit, or defective products.[39] The severity of punishment—at least according to the legislation—depends on the nature of the crime, the nature of the product and problem, and the severity of the harm caused by the problem. When a company is found to be criminally liable, the company itself is subject to a fine and the person in charge of the company (e.g., the "legal representative," typically the chairman of the board or general manager) is subject to criminal punishment ranging from fines to confiscation of property, detention, imprisonment, or death. China's other legislation and regulations concerning food safety and product quality include the PRC Agricultural Product Quality Safety Law,[40] State Council Special Provisions on Strengthening Supervision and Management of Food Safety,[41] and the National Plan for Major Food Safety Emergencies.[42] These laws and regulations create overlapping portfolios and less-than-clear lines of responsibility among multiple regulatory actors, including the State Administration for Industry and Commerce; the State Food and Drug Administration; the General Administration of Quality Supervision, Inspection and Quarantine; the Standardization Administration; the Ministry of Health; the Ministry of Agriculture; and the Ministry of Commerce. Overlapping portfolios and less-than-clear lines of responsibility among multiple legal and regulatory actors present additional challenges to implementation.

NEW FOOD SAFETY LAW

Into this complex legislative and regulatory mix, the National People's Congress added the new PRC Food Safety Law on February 28, 2009, which took effect on June 1, 2009,[43] replacing the 1995 PRC Food Hygiene Law.[44] The new Food Safety Law aims to consolidate the regulatory and legislative landscape governing food safety and product quality. Accordingly, the new law creates a National Food Safety Commission charged with coordinating the work of five ministries that retain supervision over different phases of food production.[45] The law clarifies criminal liability,[46] prescribes fines,[47] provides for confiscation of unlawful gains and property,[48] and permits consumers to claim, in addition to compensation, punitive damages up to 10 times the purchase price of the product in question from the manufacturer or seller.[49] In part in response to the tainted milk powder crisis, the new law also provides for a system for monitoring food production;[50] national standards for food quality and safety standards for food additives, pesticides, herbicides, and heavy-metal content;[51] the establishment of a surveillance and risk assessment system;[52] the elimination of government quality inspection waivers and exemptions (aimed at limiting preferential treatment of producers by inspectors);[53] and a food product recall system.[54] The law also mandates a coordinated national program for responding to food safety emergencies.[55] The impact of the law as yet is unclear.

On July 20, 2009, the State Council issued the PRC Food Safety Law Implementing Regulations, which came into effect immediately. The Implementing Regulations provide little additional

guidance, though they do provide greater detail on the national food safety risk monitoring program.[56] Further, government departments with responsibility under the Food Safety Law have issued implementing measures. The State Administration of Industry and Commerce issued the Administrative Measures for Supervision of Safe Distribution of Food Products and the Administrative Measures on Food Product Distribution Licensing, both of which were adopted and became effective July 30. The Administration of Quality Supervision, Inspection and Quarantine and the Ministry of Health on July 22, 2009, issued an announcement on how to apply standards for food and food additives imports. On June 1, the Ministry of Agriculture issued a notice on implementing the Food Safety Law. These implementing rules have begun to clarify China's food safety regime.

The impact of the new Food Safety Law and implementing regulations, however, will depend not only on the effectiveness of implementation and enforcement, but also on the thoroughness with which regulatory authorities specify standards, timelines, budgets, and dispute resolution procedures, and on the Chinese Government's ability—as yet unproven—to develop funding resources and expertise to hire and train qualified inspectors and regulators in sufficient numbers with requisite credentials.[57]

ENFORCING FOREIGN PRODUCT LIABILITY JUDGMENTS IN CHINA

During the Commission's 2009 reporting year, product quality crises over Chinese drywall and other products[58] raised legal questions that centered on the utility of suing Chinese defendants outside of China, and, relatedly, the difficulty of serving a foreign complaint in China. As a party to the Hague Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters,[59] China accepts service of process made through its central authority. Because pleadings must be served in Chinese, however, and reliable legal translation services are expensive, complainants wishing to serve a foreign complaint in China often find it prohibitively costly to do so. The question, however, is not whether serving a foreign complaint in China is cost effective, but rather whether there is any reasonable probability of collecting on a foreign judgment against a Chinese company in China in the first place. Foreign lawyers on the ground in China have reported difficulty enforcing foreign judgments in China for a variety of reasons besides the language barrier and have reported that arbitration offers a greater chance of success.[60] Because China has signed the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "New York" Convention), Chinese courts should enforce arbitration awards from the jurisdiction in which parties contractually agree to arbitrate.[61] With a foreign arbitral award, parties still must go to a Chinese court for enforcement, and companies have reported great difficulty achieving effective enforcement in such cases. Courts frequently find procedural reasons for not enforcing, in some cases attributable to local protectionism.

PRODUCT RECALLS

The Sanlu case highlighted the ineffectiveness of China's system for recalling dangerous products. Companies that seek to recall a

defective product in China may face insurmountable obstacles in implementing a recall.[62] Some foreign manufacturers who intended to include China in worldwide product recall campaigns reportedly abandoned their China recall programs because of the lack of a workable recall system within China.[63] It is reasonable to expect, therefore, that implementation of any recall system in China will be most effective first with foreign manufacturers who already have shown interest in including China in product recall campaigns. Enforcement authorities in China, in turn, may have incentives to pursue enforcement disproportionately against foreign-produced goods due to manufacturers, interest in and greater relative capacity to comply.[64]

Telecommunications

Notwithstanding international criticism of China's control of the Internet, the Chinese Government uses enhanced regulation of the already tightly-controlled telecommunications industry as a further means to control the transmission and dissemination of online content that the government and Party deem to be potentially detrimental to national unity, territorial integrity, social order, or stability.[65] [For more information on China's control of the Internet, see Section II—Freedom of Expression—box titled Green Dam.] On March 1, 2009, for example, the Ministry of Industry and Information Technology (MIIT) issued new Measures for the Administration of Permission to Provide Telecommunications Services (Measures), which took effect on April 10, 2009.[66] The Measures lower entry thresholds for "basic" telecommunications companies and improve the transparency of licensing and reporting procedures. However, the Measures also include specific provisions that obligate companies to assist in regulating the dissemination of "illegal" online content (*weifa xinxi*).[67] Under the Measures, so-called value-added service providers have an affirmative obligation to monitor or "supervise" (*jiandu*) Web sites used for the transmission of "illegal" content over networks. When prohibited transmissions occur, providers are required to "suspend or terminate network access immediately," to "preserve records," and to "report to the relevant authorities."[68] The measures apply to an industry that underwent consolidation in the past year and is already tightly controlled and protected. China's telecommunication industry underwent consolidation in May 2008, with the number of major operators reduced from six to three: China Mobile (mobile services), China Telecom (fixed services), and China Unicom (broadband services).[69] This was the fourth major telecommunications reorganization since the Chinese Government opened the industry to domestic competition.[70] Foreign participation in China's telecommunications industry remains restricted, and Chinese state actors are likely to hold controlling stakes in most if not all telecommunications service providers for the foreseeable future.

Intellectual Property

Several developments in the area of patent law occurred over the last year and 2009 was the first year that China's State Intellectual Property Office (SIPO) granted more patents to Chinese than

foreign applicants.[71] In 2008, Chinese applicants were awarded 49.7 percent of the total number of invention patents granted by SIPO.[72] In the first six months of 2009, however, according to official SIPO figures, Chinese applicants received 18,634 patents (51.2 percent), while overseas applicants received 17,737 (48.8 percent).[73] Chinese patent applications tended to be for innovations related to computer input methods for Chinese characters, ceramics, beverages, food products, and Chinese medicine.[74] Chinese patent applications for innovations related to high-tech products were comparatively fewer relative to foreign applications.[75] In part to address this problem, SIPO has opened roughly 50 of approximately 100 planned intellectual property assistance and protection centers around the country.[76] These centers are intended "to help Chinese citizens, legal persons and other organizations that have financial difficulties in [intellectual property rights] disputes and litigation,"[77] and complement SIPO's outreach to corporate research personnel, to help them understand why and how they may make effective use of the Chinese Government's systems for protecting intellectual property rights (IPRs).[78]

AMENDMENTS TO PATENT LAW

In December 2008, the National People's Congress passed amendments to the PRC Patent Law[79] that take effect on October 1, 2009, and are intended to encourage domestic innovation. The amendments follow publication in June 2008 of the Outline of the National Intellectual Property Strategy (National Strategy).[80] The National Strategy stated that "by 2020 China will become a country with a comparatively high standard in terms of the creation, utilization, protection and administration of IPRs."[81] One prominent international publication for legal professionals described this as a "promise to turn 'made in China' into 'invented in China.'"[82] The Amendments to the Patent Law (Amendments) come after three decades during which China's patent system on paper has developed at impressive speed. While patent filings have risen dramatically in the last year,[83] China still plays a small role in the formulation of standards.[84] At the same time, the increase in filings presents China's State Intellectual Property Office (SIPO) with challenges familiar to patent offices around the world, such as maintaining sufficiently high examination standards while coping with an increasing amount of prior art in different languages, and avoiding delays in completing examinations.[85] The "biggest challenge for SIPO," a prominent Chinese intellectual property attorney has been described as saying, "is not just to clear out the backlog of filings, but to raise examination quality to meet the standards of the global [intellectual property] system."[86]

These institutional capacity challenges aside, the Amendments create other new problems as well.[87] The Amendments contain provisions for compulsory licensing (i.e., requiring patent holders to license patents to others) that patent experts have found troubling.[88] The Amendments allow compulsory licensing if, after three years from the grant of a patent, or four from the filing of a patent application, the patent holder, "without proper justification," is found not to have "exploited" the patent "sufficiently," or if use of the patent is found to restrict competition.[89] One patent expert has ob-

served that the timing set forth in the provisions may violate the Paris Convention for the Protection of Industrial Property, to which China is a party.[90] Of equal importance, however, the Amendments may undermine protections for investment in innovation that underlie China's motivations for amending the law in the first place.[91] The Amendments may be especially prejudicial for the biotechnology industry.[92] International agreements, including the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS), recognize governments, right to issue compulsory licenses if a patent holder fails to make the patented product available to the public in the face of a compelling public need. A typical example is the case of a holder of a patent for the cure of a disease who refuses to make any sales during an epidemic that occurs after the patent has been issued.[93] Under the amended PRC Patent Law, however, compulsory licensing decisions turn on vague standards such as the "sufficient" use of patents and "proper justification" for patent holders, decisions, and there is concern that the Amendments provide the potential for official discretion that could undermine intellectual property protections.

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In December 2007, the WTO Director-General composed a panel in relation to a dispute in which the United States challenged deficiencies in China's intellectual property rights protection and enforcement regime attributable to weaknesses in China's legal institutions and systems of policy implementation.[94] The panel published its report on January 26, 2009.[95] The panel found that China violated TRIPS Article 9(1) (and, by incorporation, Article 5(1) of the Berne Convention for the Protection of Literary and Artistic Works) and TRIPS Article 41(1). Under these provisions, governments must grant copyright protection for qualifying works and establish enforcement procedures for such protection. Chinese law grants or denies copyright protection under Article 4(1) of the PRC Copyright Law (which states, "works the publication or distribution of which is prohibited by law shall not be protected by this Law")[96] based on a review process conducted by Chinese authorities to determine whether content is prohibited under Chinese law on grounds such as inconsistency with fundamental principles established in the PRC Constitution, or that content is "superstitious" or "immoral."[97] More important, the panel's decision implies a need for the National People's Congress to amend the Copyright Law, especially Article 4(1), without delay. The State Council last year acknowledged the need for prompt revision of the Copyright Law.[98] While some Chinese authorities see media openness and the protection of literary and artistic works as elemental to a fully functioning marketplace of ideas, the prevailing modus operandi among officials is to treat the protection of intellectual property as impediments to control. While some Chinese directors and actors have developed worldwide renown and amassed fortunes, it is their earnings on foreign releases for the most part that have enabled them to become wealthy, while piracy inside China prevents them from realizing material gains based on the popularity of their works at home.[99]

TRADE RESTRICTIONS ON BOOKS, DVDS, MUSIC, AND FILMS—WTO PANEL REPORT

On August 12, 2009, a WTO panel found that certain Chinese regulations restricting the ability of foreign companies and Chinese-foreign joint ventures to import or distribute (1) reading materials, (2) audiovisual home entertainment (AVHE) products, and (3) sound recordings, as well as to import films for theatrical release, were in violation of international trade agreements.[100] The ruling did not challenge China's censorship of the content of the products in question or address China's compliance with international obligations to protect intellectual property rights. According to the panel report, reading materials include books, newspapers, periodicals, and electronic publications; AVHE products include videocassettes, VCDs, and DVDs; and sound recordings include recorded audio tapes. The panel report stems from a Request for Consultations filed by the United States in April 2007.[101]

A summary of the panel's findings can be found on pages 461 through 469 of the report. Specifically, the panel found the following measures to violate China's WTO agreements:

- Chinese regulations that expressly prohibit foreign investment in businesses that import reading materials, AVHE products, or sound recordings, as well as regulations that give the Chinese Government discretion to determine who may import reading materials, AVHE products, sound recordings, and films into China. For example, Articles 10(2) and 10(3) of the Catalogue for the Guidance of Foreign Investment Industries prohibit foreign investment in the "business of . . . importing of books, newspaper and periodical" and the "business of . . . importing of audio and visual products and electronic publications."[102] The panel found that these provisions violate commitments in the Chinese Government's Protocol of Accession to the WTO (Protocol) and the Report of the Working Party on the Accession of China (Working Party Report) that require China to permit all enterprises in China and foreign enterprises and individuals to import and export all goods (with some limited exceptions) to and from China by December 2004. In addition, the panel found other regulations that violate commitments in the Protocol and the Working Party Report. Examples include Articles 41 and 42 of the PRC Regulation on the Administration of Publishing, which require companies that import publications into China to be Chinese wholly state-owned enterprises, and Article 30 of the Regulations Regarding Management of Films, which gives the State Administration of Radio, Film, and Television discretionary authority to decide who can import films.[103]
- Chinese regulations that restrict the ability of wholly foreign-owned enterprises and Chinese-foreign joint ventures to distribute reading materials, AVHE products, and sound recordings within China. For example, the panel found that Article 8(4) of the Rules for the Management of Chinese-Foreign Contractual Joint Ventures for the Distribution of Audiovisual Products,[104] which stipulates that the Chinese partner in a Chinese-foreign joint venture distributor of audiovisual products

must be the majority shareholder, violates national treatment provisions in the General Agreement on Trade in Services (GATS). Article XVI:2(f) of the GATS prohibits parties to the GATS from putting ceilings on the percentage or total value of foreign investment. The panel also cited other regulations expressly prohibiting foreign investors from engaging in the distribution of the products in question, such as Article 4 of the Several Opinions on the Introduction of Foreign Capital Into the Cultural Sector, which prohibits foreign-invested entities from distributing publications or audiovisual products within China.[105]

China argued that its requirement that importers of reading materials and audiovisual products be wholly state-owned enterprises is "necessary to protect public morals," a claim that the panel rejected. According to Article XX(a) of the General Agreement on Tariffs and Trade 1994 (GATT 1994), a country may adopt trade measures that are "necessary to protect public morals." According to the panel's report, China argued that reading materials and audiovisual products are "cultural products" which are "of a unique kind with a potentially serious negative impact on public morals," and noted that "in the case of products to be imported it is critical that the content review be carried out at the border." Furthermore, China argued that relying solely on administrative authorities to carry out this review would create "undue delays" because of those authorities' "limited resources," and therefore it is appropriate for Chinese authorities to select "import entities" that would help conduct a content review. China contended that the "contribution of the import entities to the content review is a substantial and essential condition for an effective and efficient content review." Finally, China argued that these import entities must be wholly state-owned enterprises, because ". . . the Government cannot require privately owned enterprises in China to bear the substantial cost [of conducting content review.]" In response, the United States argued that "content review can be conducted before, during, or after importation by any number of entities, with no need to give China's state-owned enterprises a monopoly on importing." The Panel found that the Chinese Government's monopoly on the screening and importing of reading materials and audiovisual products was not a measure "necessary" to protect public morals as allowed under Article XX(a) of the GATT 1994.

Tires

When China joined the WTO, it agreed that other WTO Members would have the right, for a period of 12 years, to provide temporary relief from any "market disruption" to a domestic industry caused by a surge in imports from China. (Article 16 of the WTO Protocol on the Accession of the People's Republic of China.) In 2000, the United States implemented this agreement through section 421 of the Trade Act of 1974 (Trade Act). Under the rules governing China's WTO membership, "market disruption" exists whenever imports "are increasingly rapidly . . . so as to be a significant cause of material injury, or threat of material injury to the domestic industry." In determining if market disruption exists, the United

States is required to consider factors "including the volume of imports, the effect of imports on prices . . ., and the effect of such imports on the domestic industry[.]"

On September 11, 2009, the Obama Administration announced that the United States would take action to stem a flood of imports of tires from China pursuant to section 421 of the Trade Act. In this case, the independent, bipartisan International Trade Commission (ITC), after an extensive investigation, had concluded that a surge of low-priced Chinese tires had injured the U.S. tire industry. Of particular note, the ITC found that there had been a tremendous, rapid surge in Chinese tire imports (a tripling of imports from 14.6 million in 2004 to 46 million in 2008) and evidence of persistent underselling by the Chinese (Chinese prices were 23 to 25 percent lower than U.S. prices). Over the same period, the ITC documented that the U.S. tire industry's sales fell by 30 percent, and more than 5,000 workers lost their jobs.

Insurance

The PRC Insurance Law, which took effect in October 2002, was revised in February 2009. The revised PRC Insurance Law (Law) takes effect October 1, 2009. The revised Law provides for stricter oversight of insurers by the China Insurance Regulatory Commission (CIRC), and includes a number of provisions that, if implemented effectively, should strengthen protections for policyholders.[106] For example, the amended Law limits the number of requests insurers may make for additional documentation to support a claim, and imposes time limits on claims processing.[107] The Law obligates the insured to disclose information that might influence an insurer's decision to insure or the terms under which it will insure, but also includes three limitations in this regard that benefit the insured. First, the duty to disclose is limited to queries raised by the insurer.[108] Second, in the case of misrepresentation by the policyholder, the Law sets forth a time limit within which the insurer must exercise its right to terminate the contract, and beyond which the insurer forfeits its right to terminate the contract.[109] Third, the Law also provides that,

> [i]f the insurer, when concluding the contract, was aware that the insured failed to provide truthful information, it may not terminate the contract. If an insured event occurs, the insurer shall bear the obligation of paying indemnities or insurance benefits.[110]

This "estoppel"[111] provision is new to Chinese insurance law. It provides protection to consumers by addressing practices used in bad faith by some insurers to profit by taking advantage of vulnerable consumers. If enforced effectively, this provision, for example, would eliminate incentives some life insurance sales agents now have to encourage clients not to disclose a known illness on an insurance application and then to profit by selling the client a policy, knowing that, in light of the insured's nondisclosure of the illness on the original application, the insurer will not be required to pay on the policy after the insured's death. Lawyers in China have reported instances of this very practice, suggesting that the amend-

ment of the Law attempts to address material problems affecting ordinary consumers.[112]

The Law provides further protection to consumers by requiring insurers to "explain the provisions of insurance contracts to the policyholder."[113] The Law as amended also provides that,

> [t]he insurer should, when concluding an insurance contract, provide on the application, insurance policy document or other insurance certificate a reminder sufficient to draw the attention of the insured to the clauses in the insurance contract that exempt the insurer from liability and shall expressly explain the contents of such clauses to the insured in writing or orally. If no such reminder or express explanation is given, such clauses shall not take effect.[114]

The Law provides no guidance on how the permitted oral explanation may be verified or documented. Whether this flexibility ultimately benefits insurers or policyholders will depend on the interpretation of this provision by courts or other adjudicatory and regulatory bodies, and on any subsequent implementation guidelines issued by legislative organs, regulators, and courts.[115]

The revised Law also includes provisions intended to contribute to macroeconomic stability. The Law calls for a strict separation between the insurance sector and other finance-related sectors, namely banking, securities, and trusts.[116] In addition, insurers may not concurrently engage in the personal insurance business and the property insurance business.[117] The Law also introduces qualification requirements for directors, supervisors, senior management, and actuarial personnel of insurance companies.[118] The Law also now requires insurance companies to establish internal compliance and reporting systems.[119]

Antimonopoly

Since the PRC Antimonopoly Law (AML) took effect on August 1, 2008, AML enforcement has lagged[120] as the three enforcement authorities—the State Administration for Industry and Commerce (SAIC), the National Development and Reform Commission (NDRC), and the Ministry of Commerce (MOFCOM)—have devoted efforts to developing AML implementing regulations.[121] In part as a result, parties alleging anticompetitive behavior have turned instead to bringing private cases directly to courts. For example, the Dongcheng District People's Court in Beijing on March 30 accepted a case brought by a customer of China Mobile who accused the company of illegally charging a monthly rental charge on top of other standard charges, of charging subscribers different fees for similar services, and otherwise abusing its dominant market position.[122] A similar case brought by a private citizen against a China Netcom affiliate last year resulted in the affiliate's changing its terms of service.[123] Since the AML took effect, other private actions reportedly have been brought against domestic companies by plaintiffs alleging anticompetitive behavior, including a complaint against China's leading Internet search portal, Baidu,[124] and another against China Petroleum and Petrochemical Corporation (SINOPEC).[125] As enforcement authorities issue implementing guidelines, however, the number of complaints filed with adminis-

trative enforcement authorities is expected to rise. Even though courts offer a forum for grievances at the present time, they do not necessarily possess the requisite investigatory and regulatory capacity to dispose of the cases that have been brought. For this reason, while private actions offer a channel for grievances now, practitioners do not expect the cases that have been accepted by the courts to move quickly or to produce landmark judicial decisions.[126]

Authorities, in fact, recently have begun formally issuing long-awaited AML implementing rules and procedures. On June 5, 2009, the SAIC issued two sets of procedural rules related to the AML:[127] Procedural Rules Regarding Prohibition of Abuse of Administrative Power for the Purpose of Eliminating or Restricting Competition[128] and Procedural Rules Regarding Investigation and Handling of Cases Relating to Monopoly Agreement and Abuse of Dominant Market Position,[129] both of which took effect on July 1, 2009.[130] Under these rules, a complaint of a suspected AML violation must be made in writing, and include, in addition to facts about the suspected AML violations, basic information about the complainant.[131] Furthermore, submitted evidence must identify and be signed by the persons providing such evidence.[132] Some antitrust lawyers have expressed concern that these requirements may discourage reporting or providing evidence for AML violations.[133] On May 24, 2009, the Antimonopoly Commission of the State Council issued Guidelines for Defining the Relevant Market.[134] The guidelines incorporate comments made on an earlier draft that had been published for public comment. It remains to be seen how these guidelines will be applied in practice.[135]

MOFCOM has authority to conduct premerger reviews under the AML, and the solicitation of views appears also to have become an integral part of MOFCOM's premerger review process. As part of its premerger review of proposed transactions, MOFCOM has been making use of its authority to solicit third-party views from government entities, customers, industry associations, and competitors.[136] According to MOFCOM decisions posted on its Web site, in its review of a proposed merger transaction involving Coca-Cola, MOFCOM solicited third-party views from juice beverage enterprises, upstream juice and concentrate suppliers, and downstream juice beverage sales agents.[137] Similarly, in its review of a proposed merger transaction involving InBev/Anheuser-Busch, MOFCOM solicited third-party views from government agencies, beer trade associations, domestic beer producers, distributors, and domestic suppliers of raw materials.[138] In its review of a proposed merger transaction involving Mitsubishi Rayon/Lucite, MOFCOM solicited third-party views from trade associations, competitors, and downstream producers.[139] If such solicitation of views from a wide range of third parties becomes routine for all MOFCOM reviews, the practice would bring China more closely in line with countries that have premerger notifications regimes.[140] The Commission will monitor and report on these trends going forward.

ACCESS TO JUSTICE

Chinese citizens continue to face substantial obstacles in seeking remedies for violations of their legal rights by governmental entities and officials. During the Commission's 2009 reporting year, according to some Chinese lawyers, the harassment of human rights lawyers reached an unprecedented level, with Chinese authorities reportedly stripping at least 21 human rights lawyers of their licenses to practice law.[1] Authorities also ordered the Yitong Law Firm, whose lawyers were active in the effort to seek direct election of the leadership of the Beijing Lawyers Association, to close for six months, a harsh punishment that will likely mean the demise of the law firm.[2] In addition, the government shut down the academic research and legal assistance organization Open Constitution Initiative, or Gongmeng, and detained Xu Zhiyong, one of its cofounders, for several weeks for alleged tax evasion.[3]

The courts offer little promise to citizens for obtaining justice in disputes relating to the government; even the Supreme People's Court acknowledged that citizens lack confidence in the courts to fairly resolve disputes involving government officials.[4] The petitioning or *xinfang* ("letters and visits") system is another channel for seeking redress of grievances, yet it too is beset with problems.[5] Lacking reliable and effective avenues for seeking redress of violations of rights, more and more Chinese citizens are taking to the streets in protest and seeking out the support of the many-millions-strong online community.[6] Protests, both real and virtual, appear to increasingly be the most effective way for Chinese citizens to be heard, a troubling trend for the Chinese leadership for whom maintaining "social stability" is paramount.[7]

International Human Rights Standards and Access to Justice

International human rights standards require effective remedies for official violations of citizen rights. Article 8 of the Universal Declaration of Human Rights provides: "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."[8] Article 2 of the International Covenant on Civil and Political Rights (ICCPR), which China has signed but not yet ratified, requires that all parties to the ICCPR ensure that persons whose rights or freedoms are violated "have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity."[9]

Harassment and Intimidation of Human Rights Lawyers

The harassment and intimidation of human rights lawyers in China by government officials noted in the Commission's 2008 Annual Report worsened during the Commission's 2009 reporting year.[10] In the words of a group of rights defense (*weiquan*) lawyers who issued a public statement in late May:

> At the time of the 20th anniversary of June Fourth,[11] the rigid and backward political system has led to social conflicts of unprecedented intensity, and incidents of human rights violations are happening all the time. As the Chi-

> nese government bears down heavy-handedly to [rein] in petitioning citizens, [independent] intellectuals, rights defenders, and religious figures, it has once again in 2009 intensified its full-scale repression of rights defense lawyers to an unprecedented degree. The process of building a country ruled by law has suffered a serious setback, causing widespread concern through all circles of society.[12]

The primary modes of suppression of rights lawyers during the past year included abductions and physical violence and the misuse of the annual registration requirement as well as other administrative measures to impede the work of human rights lawyers.[13]

ABDUCTIONS AND PHYSICAL VIOLENCE

During this reporting year, public security officials and those working under their direction increasingly used abductions, physical violence, and threats of physical violence to harass and intimidate human rights lawyers.[14] The targets of abuse included, among others, Yang Zaixin, Cheng Hai, Li Chunfu, Zhang Kai, and Tang Jitian.[15] Such actions are not new; imprisoned legal advocate and rights defender Chen Guangcheng was kidnapped in 2005, as were Gao Zhisheng and Hu Jia in 2006. Authorities abducted human rights lawyer Li Heping in the fall of 2007, and legal scholar and activist Teng Biao in March 2008.[16] Several rights lawyers, such as Gao Zhisheng and Zheng Enchong, have been subjected to ongoing abuse and surveillance. In the view of a group of rights defense lawyers, state violence against them has escalated during this past year.[17] The following are several examples of the violence human rights lawyers suffered during the past year:

- On April 9, 2009, Yang Zaixin, a lawyer based in the Guangxi Zhuang Autonomous Region, was beaten by five unidentified assailants, an attack Yang believes was in retaliation for his work representing farmers in a case that challenged the expropriation of their land by local officials for a tree-farming venture with a foreign-invested company.[18] According to Yang, "The message was clear: the purpose of the beating was to persuade me to stop my work."[19]
- In mid-April, a group of men attacked Beijing lawyer Cheng Hai in Chengdu city, Sichuan province, while he was on his way to meet with a detained Falun Gong practitioner.[20] Cheng reported that he believed the assailants were officials from the Jinyang General Management Office in Chengdu.[21] According to the non-governmental organization Chinese Human Rights Defenders, the main purpose of the General Management Office is to coordinate various law enforcement agencies and personnel, with the goal of maintaining "social stability."[22]
- On May 13, Beijing lawyers Li Chunfu and Zhang Kai were harassed and beaten by public security officers while they were in Chongqing municipality to meet with the family of a 66-year-old Falun Gong practitioner who had died suddenly in detention at Chongqing's Xishanping Reeducation Through Labor Center.[23] While Li and Zhang were at the family's home, over 20 police officers entered the house. The police officers beat the attorneys, handcuffed them, and took them to a police station,

where they were detained for six hours.[24] The officers tried to force them to drop the case.[25]

• Early in the morning of June 4, after human rights attorney Tang Jitian had been taken into police custody for questioning on June 3 and then released, he was abducted by domestic security protection (*guobao*) officers.[26] They took Tang to a secret detention facility.[27] According to Tang, the officers told him that ". . . because it was a sensitive period, they had to restrict [his] freedom."[28] Tang reported that the two security officers told him not to take on any more human rights cases (such as Falun Gong) and not to get involved in issues that would upset the government; otherwise, he would find it difficult to live and work in Beijing. Tang was released on the evening of June 7.[29]

• In early July 2009, Chinese authorities forcibly detained three lawyers in Shandong and Liaoning provinces for representing Falun Gong practitioners.[30] One of the lawyers, Wang Yonghang, from Dalian city, Liaoning province, was reportedly severely beaten in custody.[31] Authorities refused to renew his license to practice law earlier this year, but Wang nonetheless continued to defend Falun Gong petitioners. In August, Wang was arrested for allegedly "using cult organizations to undermine the implementation of the law."[32]

LAWYERS' "ANNUAL ASSESSMENT AND REGISTRATION" SYSTEM AND OTHER MEASURES USED AGAINST RIGHTS DEFENSE LAWYERS

In order to continue practicing law, lawyers in China must have their license to practice law renewed annually by passing the "assessment and registration."[33] The government-controlled lawyers associations decide each year "who is qualified to practice law," explained legal scholar and activist Teng Biao.[34] Some rights lawyers have stated that this process has become a political tool to silence human rights lawyers and intimidate other attorneys from joining their ranks.[35] Teng Biao, whose lawyer's license was revoked last year,[36] wrote in the Washington Post that of all the different sorts of obstacles confronting rights lawyers, what "most impedes our work . . . is the revocation of our licenses to practice law."[37]

As of early September 2009, at least 21 rights lawyers had not passed the "annual assessment and registration."[38] The list includes such prominent human rights lawyers as Jiang Tianyong, Li Heping, Li Xiongbing, Li Chunfu, Cheng Hai, Tang Jitian, and Xie Yanyi.[39] According to the Hong Kong-based non-governmental organization (NGO) China Human Rights Lawyers Concern Group, there are likely more rights lawyers whose licenses will be either suspended or revoked this year.[40] Rights lawyers and NGOs believe that authorities are punishing the lawyers for taking on cases the government deems sensitive or controversial, such as cases involving Falun Gong, the May 2008 Sichuan earthquake, tainted milk products, Tibetans and other ethnic minorities, HIV carriers, political dissidents, house churches, expropriation of rural land, forced evictions, and unnatural deaths in police custody.[41] Many of the targeted lawyers were also involved in the campaign for direct elections of the leadership of the government-controlled Beijing

Lawyers Association. [See Section III—Institutions of Democratic Governance, for more details.]

The Beijing Justice Bureau (BJB) and the Beijing Lawyers Association (BLA) also engage in indirect tactics to pressure Beijing-based human rights attorneys to stop taking on "sensitive" cases.[42] For example, the BJB and BLA will, in certain instances, pressure law firms to simply fire human rights attorneys.[43] One of the directors of Jiang Tianyong's firm told him that "since we work under them [i.e., the BJB and BLA], we have to yield."[44] Tang Jitian also reported that justice bureau authorities had told his law firm to fire Tang, or the law firm would face punishment.[45] Government authorities also have pressured landlords to stop renting apartments to human rights attorneys. Jiang Tianyong stated that after he became involved in the case of imprisoned legal activist Chen Guangcheng in 2006, Jiang's landlord was pressured by security officials to stop renting his apartment to him.[46] After Tang Jitian's abduction in June 2009, Tang reported that his landlord told him to move out, at the request of the police.[47] Li Xiongbing also reported that the police had asked his landlord to kick him and his wife (and child) out of the apartment they were renting.[48]

Authorities Order Six-Month Shutdown of Yitong Law Firm

In February 2009, the Haidian District Justice Bureau in Beijing informed Yitong, a firm well-known for taking on "sensitive" human rights cases, that it was being ordered to close for six months.[49] According to Yitong lawyer and blogger Liu Xiaoyuan, the six-month closure order was "tantamount to a death sentence" for the law firm.[50] The reason given by the judicial bureau for the administrative punishment was that Yitong had allegedly permitted an unlicensed lawyer, Li Subin, to practice law. (Li had been stripped of his lawyer's license in 2001 after he successfully sued a local justice bureau in Henan province for overcharging lawyers' registration fees.)[51] Although the March 3 hearing on the administrative punishment of a six-month closure was supposed to be public, only the firm's managing partner, Li Jinsong, was permitted to attend.[52]

The Haidian District Justice Bureau issued its official decision ordering the shutdown of the firm on March 17. All the lawyers were ordered to turn in their licenses, and at that point all of Yitong's employees were effectively out of work.[53] In late June, more than three months after closing, Li Jinsong told the Washington Post that he was not sure if Yitong could still pay its rent.[54]

Authorities Order Six-Month Shutdown of Yitong Law Firm—Continued

Liu Xiaoyuan says he believes that the real reason for shutting down Yitong was the involvement of many of the firm's lawyers in the bid for direct elections of the leadership of the government-controlled Beijing Lawyers Association.[55] The non-governmental organization Human Rights in China reported that the firm was also likely being punished for taking on cases deemed "sensitive" by the authorities.[56] Liu stated that Li Subin worked as a legal advisor and assistant to other lawyers at the firm, not as an attorney, and that even if he had worked as an attorney without a license, the punishment of closure was a much harsher penalty than what had been ordered in similar cases.[57] In Liu's view, the aim of the six-month closure was to force Yitong to go out of business. Liu noted that this was the same tactic that had been used to shut down Gao Zhisheng's law firm in November 2005.[58] According to Li Subin, the authorities' strategy is that of "killing one to warn 100" (*shayi jingbai*)—the shutdown of Yitong is a signal to other firms to stay clear of sensitive cases and issues.[59]

On July 29, law professor and rights defender Xu Zhiyong was taken into police custody for alleged tax evasion, and detained for more than three weeks before suddenly being released on bail.[60] Xu's detention came on the heels of the closure of the legal assistance and research organization he cofounded, Open Constitution Initiative (OCI), for alleged tax problems. [See Section III—Civil Society, for more details about the shutdown of OCI.] OCI took on a range of cutting-edge legal cases and issues, including the publication of an independent report earlier this year on the March 2008 Tibetan protests and rioting.[61]

Judicial Review of Violations of Citizens' Rights by Government Officials or Entities

As the Commission has observed in previous annual reports, there are substantial obstacles to judicial independence in China—both for the courts as institutions and for individual judges. As noted in the Commission's 2008 Annual Report, the ascendance of Wang Shengjun to the position of president of the Supreme People's Court (SPC) was not an encouraging sign for legal reformers.[62] Wang rose to his new position through the public security and political affairs apparatus and appears to have been appointed not for his law credentials, but because he is a "trusted party functionary."[63] In a national meeting of judicial and security officials in June 2008, Wang emphasized the necessity of the courts to uphold the "three supremes" articulated by President Hu Jintao—the Party's cause, the people's interest, and the constitution and laws.[64]

During this reporting year, the interests of the Communist Party remained paramount, and political interference in the judiciary, both by the Party and local governments, continued, and according to some reports, worsened.[65] In July 2009, the official news agency Xinhua reported that of 30 chief judges of provincial-level high people's courts, fewer than half had prior careers in the justice system

or in legal practice.[66] He Weifang, a professor at Peking University Law School currently teaching in the Xinjiang Uyghur Autonomous Region, told the South China Morning Post that the appointment of Wang Shengjun and the appointments of Party and government bureaucrats to top positions in provincial high people's courts indicated that the country was moving further away from the "rule of law."[67] Professor He stated: "They run the court system the way they run the party or government branches. . . . There are no consolidated, respected practices that people can rely upon to deliver justice, only orders and instructions that judges think are best to maintain social stability."[68]

According to an August 2009 Xinhua report, an official at the SPC stated that many Chinese citizens believed that courts would not handle fairly cases involving violation of citizens' rights by government officials.[69] The SPC official was discussing the 11-percent decline in the number of administrative cases handled by Chinese courts in the first five months of 2009 compared with the same time period in 2008. The official's view was that the decline did not represent fewer disputes between citizens and the government, but rather that citizens felt there was little hope pursuing a remedy in court.[70] The SPC official stated that citizens chose instead to petition at "letters and visits" (*xinfang*) bureaus, even though they similarly doubted the effectiveness of the petitioning system.[71] Drawing a link between the lack of effective means to redress citizens' grievances and "mass incidents," the official was paraphrased as stating that "some people even resorted to creating disturbances in order to resolve problems."[72]

A report by Caijing, a relatively independent financial magazine, on the 20-year-old PRC Administration Litigation Law (ALL)—the most important vehicle that enables citizens to file lawsuits challenging certain government actions—noted that ". . . legal experts admit the law in practice does not work well."[73] The prominent scholar and vice president of the China University of Law and Politics, Ma Huaide, explained that courts have neither the authority nor the ability to implement the ALL.[74] Courts rely on local governments for their funding, and local governments have authority over court personnel.[75] One judge in Hunan province reportedly told the lead plaintiff in a case against the local government: "If I hear your case today, I'll be fired tomorrow."[76]

Although the number of administrative cases brought under the ALL is declining, the overall number of lawsuits has risen.[77] According to the SPC's work report, in 2008, courts at all levels nationwide handled 10,711,275 cases, a nearly 11-percent increase compared with 2007.[78] New York University Law School professor Jerome Cohen observed that the courts apparently are overwhelmed; there are too many cases and too few judicial personnel.[79] As of November 2008, courts throughout China reportedly suffered from a 320,000-case backlog.[80] Some cases had languished in the courts for up to 10 years without resolution.[81] As a response to the troubled and backlogged courts and apparently also in an attempt to head off "public discontent," the SPC issued a new regulation in early August 2009 encouraging parties to mediate their disputes.[82] A Caijing commentator observed that the renewed emphasis on mediation is a manifestation of the growing "populariza-

tion of the law" and reflects the stress being placed on "flexibility" and the implementation of the law with a view toward local issues and characteristics.[83]

Judicial corruption remains a serious problem in China.[84] In addition to the corruption investigation of former SPC Vice President Huang Songyou, whose case was recently transferred to the procuratorate for criminal prosecution, other judicial officials and court personnel in Guangdong province have been implicated in the same corruption scandal.[85] In early August 2009, the former head of the justice bureau of Chongqing municipality, Wen Qiang, was placed under *shuanggui*, a form of investigatory detention for Party members, for alleged corruption involving gang activity.[86] In January 2009, the SPC announced the "five strict prohibitions," designed to address corruption and improve judicial conduct. Judges may not accept gifts from parties that have litigation before the court and are prohibited from having inappropriate interactions with attorneys. Judges are also prohibited from profiting from the outcome of cases, interfering in cases handled by other judges, and divulging confidential trial information.[87]

Citizen Petitioning

The *xinfang* ("letters and visits") system has long been a legal avenue outside the judicial system for citizens to present their grievances to authorities.[88] China currently has an extensive system of *xinfang* offices and personnel at all levels within the government, courts, procuratorates, and people's congresses.[89] Citizens petition regarding a wide variety of issues, from "minor business disputes that local officials are unable or unwilling to resolve" to the most egregious alleged abuses and accusations of "murder, torture, and rape inflicted at the hands of government and police officials."[90] In spite of the legal right to petition, citizens who take their grievances to authorities may face official retribution, harassment, violence, or detention in illegal "black jails" (*hei jianyu*), reeducation through labor centers, or psychiatric institutions.

During this reporting year, the central government adopted measures that sought to improve the handling of petitions, and to keep petitioners from traveling to Beijing in an attempt to get their grievances heard by central government authorities.[91] In April 2009, the State Council and the Central Committee of the Communist Party jointly issued a directive ordering city- and county-level officials to dedicate a specific amount of time to meet with petitioners and listen to their grievances.[92] In July, the Supreme People's Court (SPC) posted a notice informing petitioners from Hebei, Henan, and Liaoning provinces that they should return home because the SPC would be sending out work teams from its *xinfang* office to directly handle their grievances.[93] In early August 2009, the Party's Central Political-Legal Committee (CPLC) held a meeting in Beijing regarding the handling of petitioners' grievances related to the courts and procuratorates. During this meeting, Zhou Yongkang, Politburo Standing Committee member and the head of the CPLC, stated that lower level political-legal committees were required to handle petitioners' grievances relating to the courts and procuratorates locally to prevent them from reaching Beijing, in order to ensure a "stable social environment" for the celebration of

the 60th anniversary of the founding of the People's Republic of China on October 1, 2009.[94] Shortly after the meeting, Xinhua reported that the CPLC issued an opinion—which as of early September 2009 had not been made public—that underscored the Chinese leadership's determination that petitions relating to the courts and procuratorates (which reportedly constitute a large percentage of petitions) be resolved at the grassroots level and that petitioners not travel to Beijing with their grievances.[95] Information about the opinion that appeared on the official Xinhua Web site indicated that legal officials will be sent from Beijing to localities that have a high number of petitioners to review cases where they arise. With respect to petitioners who travel to Beijing repeatedly, authorities may summarily dismiss their cases.[96] The opinion warns that petitioners must not "illegally" travel to higher levels of government with their grievances, regardless of whether their complaints are "reasonable."[97] The opinion also reportedly instructs local authorities to strengthen alternative methods for resolving disputes, such as mediation.[98]

ABUSE OF PETITIONERS

Despite the existence of *xinfang* ("letters and visits") bureaus and offices and measures to handle petitioners' grievances, "officials at all levels of government have a vested interest in preventing petitioners from speaking up about mistreatment and injustices they have suffered," according to the Chinese Human Rights Defenders 2007–2008 Yearbook.[99] Regulations dictate that local-level leaders should bear responsibility if a large number of petitioners take their grievances to higher levels, but this punishment structure also gives local authorities an interest in suppressing group petitions and preventing petitioners from approaching higher authorities.[100] Local officials reportedly routinely detain petitioners who attempt to go to Beijing to petition because, among other reasons, the officials' prospects for promotion are harmed if too many residents take their grievances to Beijing.[101] Petitioners' advocates are also at risk for reprisal.[102]

Petitioners who manage to make it to Beijing often end up being forcibly returned to their hometowns and face various forms of ill treatment.[103] According to a survey conducted by veteran petitioners and activists in October 2007 and reported by Chinese Human Rights Defenders, of over 3,300 petitioners nationwide who traveled to Beijing, more than one-third had experienced "one form of abuse or another," including illegal detentions, sometimes in black jails.[104] Many petitioners reportedly suffer violence at the hands of officials or police,[105] or are sent to reeducation through labor centers for their petitioning activities.[106]

During the report period, controversy broke out regarding commitment of petitioners in psychiatric institutions, triggered in part by the comments of Sun Dongdong, a Peking University law professor and mental health professional, and the ensuing protests over those comments.

Forcible Detention of Petitioners in Psychiatric Hospitals

Although citizens have the legal right to petition without retribution, local government officials and police who fear punishment as a result of petitioners exposing local problems have nonetheless forcibly confined petitioners to psychiatric hospitals.[107] According to the October 2007 survey of more than 3,300 petitioners, approximately 3.1 percent had been sent to psychiatric institutions at some point because of their petitioning activities.[108] A Chinese commentator, Zhai Fangye, reported that in some cases, the government held letters of appraisal (indicating the result of an examination), even though the petitioners had never actually undergone a psychological assessment.[109] Families reported that government officials sent petitioners to psychiatric facilities without notifying their families, let alone consulting with them.[110] Detained petitioners who have no mental illness have also been forcibly medicated.[111] A police officer in Liaoning province reportedly said that the practice of detaining petitioners in psychiatric hospitals and forcibly medicating them was an "open secret."[112] One scholar cautions, however, that taking petitioners to mental institutions by force not only violates their rights and the "spirit of the law," but also "pushes society to the edge."[113]

In late March 2009, a public debate regarding the detention of petitioners in psychiatric hospitals arose when Peking University law professor Sun Dongdong stated in a Chinese Newsweek magazine story that 99 percent of "professional petitioners" were mentally ill (most purportedly demonstrating symptoms of "paranoia") and that it was acceptable to forcibly detain them in psychiatric hospitals because they were disturbing public order.[114] Sun Dongdong, considered a mental health expert, also said hospitalization of such petitioners was in the best interests of society and the petitioner, ensuring that their "human rights will be protected."[115] The controversy was fueled by the fact that Sun is involved in the drafting of China's first mental health law and that his department at Peking University assists courts in evaluating the mental health of defendants.[116] A few days after Sun's comments were published, hundreds of petitioners, some of whom had been detained in psychiatric hospitals, signed an open letter in protest.[117] One petitioner said, "Sun's conclusion is shocking and irresponsible."[118] A number of Peking University students demanded that Sun resign.[119]

In the weeks following Professor Sun's comments, petitioners from around the country protested at the gates of Peking University, but many were taken away by police or prevented from entering the university by security guards.[120] On April 6, Sun publicly apologized and claimed his 99 percent figure was in reference to only those petitioners he had personally met.[121] Many were not satisfied with the apology, and it was reported that online comments in response to Sun's apology were censored.[122] On April 24, several protesters who went to the Ministry of Health to demonstrate were taken away by police and some were specifically forced to promise not to protest against Sun.[123]

FROM XINFANG TO "MASS INCIDENTS"

The inability of governmental entities to appropriately handle petitions and address petitioners' grievances is one type of governance failure that can lead to "mass incidents." "Mass incidents" is

an imprecise term and can include group petitions, protests, sit-ins, riots, labor strikes, and other forms of unauthorized demonstrations.[124] [See Section II—Criminal Justice—Clashes Between Law Enforcement Personnel and Chinese Citizens, for further discussion of "mass incidents."] One Chinese commentator noted the connection between petitioning and "mass incidents" in discussing several incidents that occurred during 2008, including the Weng'an Incident in Guizhou province and the Menglian Incident in Yunnan province.[125] He observed that they:

> were all directly linked to the failure to resolve in a timely and effective manner cases of violating public interest. Before these incidents occurred, the masses traveled to petition in hope of finding solutions through a standard approach. However, the grassroots governments avoided problems or ignored the wishes of petitioners and even cracked down on petitioners. This made it impossible to solve problems through institutional channels. The conflicts added up, the hatred deepened, and large scale mass incidents occurred in the end.[126]

There are numerous causes of "mass incidents," which, according to the Xinhua-affiliated magazine Outlook Weekly, are growing in number and becoming more violent.[127] Some of the most common causes of "mass incidents" are land seizures by local officials, corruption, forced evictions, taxation, judicial unfairness, pollution, government mismanagement of disasters, abuses of police power, inadequate social welfare, and labor disputes.[128] Most "mass incidents" are local, and according to Yu Jianrong, the director of the Center for Social Issues, Institute of Rural Development at the Chinese Academy of Social Sciences, "local governments manage lots of political, economical and judicial resources, resulting in all kinds of conflicts of interest. Most of the civil rights violations now are from local governments."[129] Some protests arise because of a direct threat to the well-being or livelihood of large numbers of people, such as a local tax hike that led hundreds of furniture makers and businessmen to protest in Nankang city, Jiangxi province, in June.[130] Other causes directly affect only a small number of people but spark more widespread outrage because of the broader issues they represent. The Shishou protest in Hubei province is one example in which tens of thousands of people took to the streets after the family of a deceased chef suspected foul play and disputed the police's claim that the young chef had committed suicide.[131]

"People's teachers" (*minban jiaoshi*) (also referred to as "community" teachers) are teachers usually found in rural areas who are not employed by the state.[132] Such teachers were involved in several reported "mass incidents" during the past year.[133] Their grievances typically related to the fact that public school teachers in China receive higher salaries than "people's teachers" and have guaranteed pension rights.[134] In December 2008, 4,000 "people's teachers" in Shandong province staged a sit-in to protest their lack of pensions and health benefits.[135] In June 2009, over 500 "people's teachers" petitioned in the Inner Mongolia Autonomous Region because of discrimination and subsidies that were not paid in full.[136] Also in June, more than 3,000 "people's teachers" in Henan prov-

ince surrounded the Henan Provincial Education Department building seeking redress from the department director.[137]

During this reporting year, there were several "mass incidents" involving Chinese veterans, most of them focusing on the issue of subsidies, health benefits, and lack of jobs.[138] In February 2009, more than 500 veterans in Yantai city, Shandong province, protested over the government's failure to provide them with promised jobs.[139] In June, in Shaanxi province, more than 1,000 veterans also protested against the government's failure to provide them with promised jobs. They also protested low government subsidies.[140]

"Mass incidents" triggered by alleged unlawful land expropriations and forced evictions continued during the past year.[141] For example, in late June 2009, several thousand protesters demonstrated in Shantou city, Guangdong province, over land seizures by the local government.[142] In mid-July 2009, when residents of Pingyang county, Zhejiang province, protested against land expropriations by local officials for commercial development, authorities sent nearly 100 police with riot shields and batons to deal with the protesters.[143]

During 2009, authorities sought to strengthen institutions and measures to handle "mass incidents." At the March 2009 National People's Congress annual meeting, Premier Wen Jiabao stated that China will "improve the early-warning system for social stability to actively prevent and properly handle all types of mass incidents."[144] Authorities also issued new rules that allow for the punishment of officials whose misconduct leads to "serious incidents."[145] In June, the South China Morning Post reported that the Supreme People's Court issued a guideline that instructs courts to "focus on dealing with a sharp increase in mass incidents, especially in the mediation of demonstrations."[146] The directive orders courts at all levels to identify "potentially troublesome cases" that could lead to protests and report them to the local governments.[147]

IV. Xinjiang

Introduction

Human rights conditions in the Xinjiang Uyghur Autonomous Region (XUAR) deteriorated in the Commission's 2009 reporting year. A demonstration held by Uyghurs in the XUAR capital of Urumqi on July 5, 2009, forcefully suppressed by police, and outbreaks of violence in the region starting that day, drew an international spotlight on longstanding tensions in the XUAR and Uyghurs' grievances toward government policies that have undermined the protection of their rights. The ensuing harsh security crackdown in the XUAR—including reports of arbitrary detention targeting Uyghurs and steps to punish acts of peaceful protest—further underscored longstanding government repression in the region and the use of anticrime and antiterrorism campaigns to quell dissent. [See box titled July 5 Demonstration in Urumqi below, for additional information.] Prior to the July 5 demonstration, however, human rights conditions in the region had already declined throughout the year, maintaining a trend in worsening conditions documented by the Commission in its 2008 Annual Report. During the previous reporting year, the government used security preparations for the 2008 Beijing Summer Olympic Games, limited reports of terrorist activity in the region, and protests in Tibetan areas of China and within the XUAR as platforms for increasing repressive security measures. In the aftermath of these events and in the face of a series of significant anniversaries within China and the XUAR, including the 60th anniversary of Communist control of the region, authorities continued in late 2008 and in 2009 to tighten repressive security controls and use them to stifle peaceful dissent and independent expressions of ethnic and religious identity, especially among Uyghurs. The government also maintained, and in some cases bolstered, policies in areas such as language use, labor, and migration that continued to disadvantage Uyghurs and other non-Han populations in the XUAR and engineer broad cultural, economic, and demographic shifts in the region.

In the aftermath of the July 5 demonstration and strife in the region, the Chinese Government reiterated pledges to place "stability above all else" and called for "striking hard" against people involved in "instigating" and "organizing" events on July 5. Acts of deadly violence took place during the week of July 5, a time during which both Uyghurs and Han Chinese were reported to commit violent assaults on each other, but efforts to prosecute people appear to have extended beyond acts of violence and include political motivations in some cases, targeting dissent by Uyghurs. Against the backdrop of a criminal law system in which authorities use criminal charges to cast free expression as a crime, XUAR authorities have conflated protest activity with acts of rioting, and official statements suggest some acts of peaceful protest or expression will be subject to formal criminal prosecution. Authorities claimed that U.S.-based Uyghur rights advocate Rebiya Kadeer orchestrated events on July 5, but did not produce evidence that proved their accusation. Rebiya Kadeer has rejected the charges against her. While security measures are reported to remain tight in the region, a number of details and the full implications of the government re-

sponse to events on July 5 remain unknown, especially in light of government controls over the free flow of information on the events.

In addition to developments connected to the July 5 demonstration, several prominent developments during the Commission's 2009 reporting year also underscored the worsening human rights conditions in the XUAR.[1] First, following major speeches from XUAR officials in fall 2008 addressing perceived threats to stability in the region, both the XUAR government and local-level governments implemented widespread security measures and ideological campaigns targeting behavior and actions including peaceful political dissent and religious activity. A top-level XUAR official bolstered the momentum for heightened security controls as he announced in early 2009 that the region would face a more severe security terrain during the coming year. Second, the government's attention to ensuring "stability above all"[2] manifested itself in various aspects of government work, resulting in heightened politicization in areas including the judicial system and the formulation of economic development policies. Third, the number of crimes of "endangering state security" (ESS), which include acts such as separatism and carry harsh punishments, appeared to surge in 2008 over previous years. As documented by the Commission in previous reports,[3] the XUAR government uses the criminal justice system, including ESS charges, as a weapon to punish dissent and expressions of ethnic identity and religious activity deemed "extremist" or "separatist." Fourth, the government increased efforts to implement "bilingual" education in XUAR schools, a program which has focused on school instruction in Mandarin Chinese and marginalized the use of Uyghur and other languages, contravening protections for ethnic minority languages in Chinese law. Fifth, authorities began to destroy a cornerstone of the Uyghur ethnic group's cultural heritage and undermined their property rights as authorities implemented a demolition project in a historic area in the city of Kashgar, which will raze most buildings and dislocate approximately 200,000 people from their homes.

Amid these various developments, the government sharpened rhetoric throughout the year against U.S.-based Uyghur rights advocate Rebiya Kadeer and "Western hostile forces" using the "cover" of human rights to "sabotage" the XUAR's stability, calling into question the government's willingness to engage with the international community in upholding its obligations to protect the rights of XUAR residents. Government rhetoric against Rebiya Kadeer heightened in July as authorities claimed that Rebiya Kadeer and the World Uyghur Congress, which she leads, instigated strife on July 5. Authorities also targeted Rebiya Kadeer's family members who live in the XUAR, reportedly ordering them from their homes, making plans to destroy trading centers held by the family, and reportedly coercing them into making public denunciations of Rebiya Kadeer.[4]

Government repression in the XUAR has a disparate impact on non-Han ethnic groups, and Uyghurs in particular, all of whom are designated as "ethnic minorities" by the Chinese Government and make up almost 60 percent of the XUAR population, according to official statistics.[5] State actions undermine these communities' ca-

pacity to maintain their cultures and enjoy their rights as defined in both Chinese law and in international human rights law that the Chinese Government is bound to uphold.[6] The repressive character of government administration in the XUAR underscores the failures of the government to grant XUAR residents meaningful autonomy over their own affairs, as provided in Chinese law. Although the XUAR is a government-designated ethnic autonomous region with legal guarantees for measures of autonomy in governance and protections for ethnic minority rights,[7] central and local government authorities exert control at a level antithetical to local residents' meaningful control over their own affairs and to the protection of their rights.

Security Measures and Ideological Campaigns

Policy statements in late 2008 and 2009 by top government and Communist Party figures in the Xinjiang Uyghur Autonomous Region (XUAR), including statements before the July 5 demonstration, indicated that heightened controls implemented in the XUAR earlier in 2008 would remain an enduring feature within the region and would be further intensified.[8] The statements outlined plans to increase security measures, enforce tight political and social controls, and implement wide-scale ideological campaigns. In a major speech in September 2008, XUAR government chairperson Nur Bekri outlined increased measures to "strike hard" against perceived threats and stated, "We have always emphasized, Xinjiang is not like the interior and coastal areas [of China], and we can never at any time slacken our work to safeguard stability[.]"[9] He said that government cadres "should unswervingly establish the notion that 'stability is above all else.'"[10] In addition, Nur Bekri cast blame on U.S.-based Uyghur rights advocate Rebiya Kadeer and "Western hostile forces" for using the "cover of 'human rights'" to attack China.[11] In a speech also in September 2008, XUAR Party Secretary Wang Lequan described plans to launch region-wide antiseparatism education later in the year.[12] In March 2009, noting the upcoming 60th anniversaries of the founding of the People's Republic of China and the "peaceful liberation" of Xinjiang, Nur Bekri stated that the region's battle against separatism would be "more severe, the task more strenuous, and the conditions for battle more intense," attributing security threats to "Western hostile forces" and to the "three forces" of terrorism, separatism, and religious extremism. He said all threats to the region would meet with "hard strikes" and "firm opposition" from the people.[13] At the central government level, a White Paper on China's national defense, issued by the State Council Information Office in January 2009, included supporters of "East Turkistan independence"—a reference to perceived separatist movements directed toward the XUAR—as one of the three threats to "China's unity and security."[14] Following the July 5 demonstration, the central and XUAR governments called for officials to adhere to the notion that "stability is above all else" and called for enforcing tight security measures in the region.[15] [See box titled July 5 Demonstration in Urumqi below, for additional information.]

The late 2008 and 2009 statements followed limited official Chinese Government reports in 2008 of acts the government described

as terrorism or attempted terrorism.[16] As in the past,[17] however, the government provided scant evidence to back up its assertions and continued to enforce restrictions on free press that hindered efforts to report on the incidents.[18] In June 2009, a XUAR Party official reported to official Chinese media that authorities had rooted out seven terrorist cells in Kashgar city in the first four months of 2009, but provided "no further details," according to the official media report.[19] Xinhua cited sources that said authorities also prevented terrorist attacks following the July 5 demonstration,[20] and Xinhua reported in September that authorities rooted out a terrorist gang.[21] The news follows prior official government reporting on terrorism in the region that has been marked by inconsistent data and indications that some criminal acts not otherwise considered to be terrorism may be conflated as terrorism or separatism.[22] In addition, the government continues to characterize peaceful human rights advocates as terrorists and to cast peaceful forms of expression or dissent as "separatist" crimes.[23] In May 2009, a XUAR public security official said terrorists "are still actively plotting new sabotage activities" and included U.S.-based Uyghur rights advocate Rebiya Kadeer and the World Uyghur Congress, an organization she heads, among "terrorist forces . . . actively expanding their room for maneuver." [24]

The central and XUAR governments reported on efforts to bolster security capacity in the region during the past year.[25] In November 2008, the Central Military Commission upgraded the status of the Xinjiang People's Armed Police force in a measure described as increasing the force's capacity to respond to stability threats.[26] In March 2009, XUAR public security officials pledged to strengthen stability measures, citing not only general central government direction to "protect growth, the people's livelihood, and stability" throughout China but also the need to defeat the threat of the "three forces" within the XUAR.[27] In June, Zhou Yongkang, member of the Politburo Standing Committee and secretary of the Politics and Law Commission of the Party Central Committee, called for strengthening China's border defense work with particular focus on the "disturbance and sabotage activities of separatist, terrorist, and extremist forces." [28] A XUAR government official said in late July that the XUAR government would draft legislation aimed specifically at separatism, reportedly the first of its kind at a provincial level of government.[29]

Local governments within the XUAR also reported throughout the year on an array of measures to tighten security in the region, targeting acts including peaceful dissent and independent religious activity.[30] In February 2009, an official from the Aqsu district government outlined measures for ensuring stability that included strengthening intelligence networks, stepped-up controls over religious activity, and an increase in ideological propaganda. The official also called for building off the successful experiences in Olympics security arrangements to tighten the district's "prevention and control" system within society.[31] In March, authorities in Zepu (Poskam) county, Kashgar district, described measures to strengthen security work through steps that include mobilizing public security, procuratorate, court, and justice department staff to conduct nightly patrols.[32] Starting in April and May, local governments re-

ported launching 100-day "strike hard" anticrime campaigns to ensure stability in the region in advance of the 60th anniversary of the founding of the People's Republic of China.[33] In addition to focusing on criminal activities like homicide and robbery, the campaigns as reported in some areas also included a stated focus on issues such as preventing "infiltration," strengthening control over religion, and guarding against the "three forces" of separatism, terrorism, and religious extremism.[34] A resident and an official in one area reported to Radio Free Asia on detentions during that period, including for "illegal religious activities."[35] Following the July 5 demonstration, authorities dispatched "stability work teams" throughout Urumqi. Urumqi's mayor reported on August 6 that "stability work teams" had done onsite investigations of 636,000 households and interviewed 1,491,000 people.[36] An Urumqi branch of an emergency antiterrorism stability maintenance group within the people's militia was established in August.[37]

As part of measures to promote stability, XUAR authorities implemented broad ideological education campaigns targeting various communities within the region. During a three-month period of antiseparatism reeducation starting in October 2008, authorities in Hoten district reported that 300,000 people directly received the education and that in total, the efforts reached more than 95 percent of the population.[38] In December, authorities in Kashgar city, Kashgar district, outlined work on antiseparatism reeducation that divided the campaign into three phases, extending through April 2009, including a period of study, a period of "exposing and criticizing," and a period of "self-examination and rectification." The Kashgar measures included plans to form teams of cadres and religious personnel to bring antiseparatism education to groups including religious adherents, workers, youth, students and teachers, and migrants.[39] The educational campaigns as described in some Chinese media reports included sharp rhetoric against peaceful human rights activity.[40] For example, as part of antiseparatism education in the Qizilsu Kyrgyz Autonomous Prefecture, the Party-led Qizilsu Women's Federation reported in March on issuing a letter to women in the prefecture, calling on them to be good wives, mothers, and daughters, and to expose the "true evil intent" behind U.S.-based Uyghur rights advocate Rebiya Kadeer's calls for human rights and democracy.[41]

Authorities also implemented wide-scale ideological campaigns in the aftermath of the July 5 demonstration and outbreaks of violence in the region starting July 5. On July 10, official media paraphrased Politburo Standing Committee member Zhou Yongkang as saying, "All CPC members should fan out to communities and villages in the [XUAR] to publicize the Party's policies, in order to ensure the region's social stability."[42] The XUAR government also announced plans in July to draft a regulation on ethnic unity education.[43] Within Urumqi, official media described dispatching to city neighborhoods "teams to uphold stability," comprised of "model workers" who explained the "truth" about events on July 5 and conveyed government and Party policy on ethnic issues.[44] In the Ili Kazakh Autonomous Prefecture, authorities launched activities to "expose and denounce" events on July 5, centering the activities

around the themes of ethnic unity, antiseparatism, and upholding stability.[45]

School systems also implemented measures to monitor students' and teachers' activities and to spread ideological campaigns. In October 2008, XUAR Party Committee Standing Committee Member Erkinjan Turaxun described the region's education system as an "important front" against separatism and called on teachers and cadres to strengthen their sense of responsibility and urgency in work against separatism and "infiltration."[46] Measures implemented within various XUAR school systems included integrating antiseparatism education into the school curriculum, creating guidelines for "restraining" and evaluating teachers, promoting education in topics including atheism, monitoring students' activities during school vacations, and requiring school staff to sign loyalty pledges.[47] While the central government strengthened education on ethnic unity in schools throughout China, in apparent connection to protests in the XUAR and Tibetan areas in early 2008, the scope of such education as reported in some schools in the XUAR exceeded the scope at the national level.[48] In May, the XUAR government issued directives to strengthen ethnic unity and antiseparatism among young adults and juveniles.[49]

In the aftermath of events on July 5, official media reports indicated steps to strengthen oversight of students' political viewpoints, including focus on college students in particular—who were reported to be involved in organizing the July 5 demonstration[50]—and to use students to convey state-sanctioned accounts of events on July 5. XUAR government chairperson Nur Bekri, speaking on July 6 at Xinjiang University in Urumqi, outlined steps for "understanding students' ideological situation" and "correctly" guiding them.[51] Later in the month, XUAR Party Committee Standing Committee Member Erkinjan Turaxun called for measures to strengthen oversight in schools, calling on school staff not to "say" or "do" things which do not "benefit ethnic unity," among other measures.[52] Authorities in the Ili Kazakh Autonomous Prefecture mobilized college students returning home to Ili to instruct local residents on the "truth" of what happened on July 5.[53]

July 5 Demonstration in Urumqi

On July 5, 2009, Uyghurs in the city of Urumqi, capital of the Xinjiang Uyghur Autonomous Region (XUAR)—reported to initially number at least 1,000 people—gathered to protest authorities' handling of a reported attack on Uyghur factory workers in late June in Guangdong province.[54] Reports, including some from official Chinese sources, indicate the demonstration was planned as and began as a peaceful protest.[55] Some demonstrators reportedly carried Chinese flags as they marched.[56] Violence was reported to occur that day. Police clashed with demonstrators and used tear gas and stun batons.[57] Police also reportedly later fired on the crowds.[58] In addition, some Uyghurs were reported to carry out attacks on Han Chinese individuals and businesses.[59] Violence also took place after July 5, including when some Han armed with weapons took to the streets of Urumqi on July 7[60]—some of whom were reported to carry out attacks on Uyghur individuals and businesses[61]—but Chinese authorities have largely pinpointed clashes and acts of violence to incidents on July 5.[62] Following events on July 5, a limited number of official Chinese sources acknowledged that a demonstration took place that day, but Chinese sources largely refer to all events on July 5 as the "'7–5' [July 5] Serious Violent Criminal Incident of Beating, Smashing, Looting, and Burning" or simply the July 5 "riot."[63] Chinese sources have reported on detentions, injuries, and death tolls specifically in connection to events on July 5.[64] Chinese authorities blame the "three forces" of terrorism, separatism, and religious extremism for events on July 5[65] and allege specifically that U.S.-based Uyghur rights advocate Rebiya Kadeer and the World Uyghur Congress, which she heads, instigated the "riot."[66] Authorities did not produce evidence that proved their accusations, and Rebiya Kadeer has rejected the charges against her.[67] Demonstrations also were reported in other cities in the XUAR,[68] and demonstrations took place again in Urumqi after July 5, including when Uyghur women gathered on July 7 to call for the release of family members detained in connection to events on July 5.[69]

Tight Security Measures

Following the demonstration on July 5 and outbreaks of violence starting that day, central government and XUAR authorities described implementing tight security measures in the region.[70] By the evening of July 5, Chinese authorities reported sending in "20,000 armed police, special police, firefighters and troops" to curb the "unrest."[71] Official Chinese media initially reported on the use of only "tear gas grenades, stun grenades, and high-pressure water guns" on July 5,[72] but later, the official Xinhua news agency reported that XUAR government chairperson Nur Bekri said police "'resolutely' shot 12 mobsters [on July 5] after firing guns into the air had no effects on these 'extremely vicious' thugs."[73] Domestic and overseas media reported on tight security measures in various localities in the days and weeks following July 5, including traffic restrictions and curfews, ID checks, widespread security sweeps and detentions (see below), and the implementation of a "ban on illegal gatherings."[74]

July 5 Demonstration in Urumqi—Continued

Amid the imposition of security measures, XUAR and central government authorities pledged through the week of July 5 and beyond to "crack down" on serious crimes and criminals, including "instigators" and "organizers" of the "riot," to promote the principle of placing "stability above all else," and to heighten propaganda campaigns to promote "ethnic unity."[75] [See Security Measures and Ideological Campaigns in this section for more information.]

Widespread Detentions Reported

High-level officials have continued to pledge to punish people who committed crimes on July 5, including through use of capital punishment, and authorities have reported on continuing detentions and arrests in the region, as well as on transferring cases to review for prosecution.[76] Some official media reports have been inconsistent on the number of people in detention, however, and a number of details about the detentions and arrests remain unknown.[77] Overseas media have cited sources reporting on widespread security sweeps and mass detentions—including reported mass roundups of Uyghur men—indicating detention numbers that would exceed those reported at different times by the Chinese Government. Some of the people reported to have been detained appear to have had no involvement in either acts of protest or violent activity on July 5.[78]

Nur Bekri said on July 24 that people "unaware of the truth" who "took part in the demonstrations but did not join in the beating, smashing, looting, and burning," along with those "not deeply involved," had been returned to their "work unit," "community" or "permanent place of residence" for "further assistance and education," following "education" while in detention and after they "pledged to repent."[79] Such wording suggests these people may remain under surveillance or supervision, or possibly a form of arbitrary detention. [See Section II—Criminal Justice, for more information on forms of arbitrary detention.] Amid many official statements that conflate protests with rioting, some other peaceful protesters, including organizers of the demonstration, appear to remain subject to criminal punishment. According to a directive issued July 8 by the Party Politburo's Standing Committee, "Instigators, organizers, culprits and violent criminals in the unrest shall be severely punished in accordance with the law," while "[t]hose taking part in the riot due to provocation and deceit by separatists, should be given education."[80]

Detailed information about most people officially reported to remain in detention, including the specific grounds for their detentions, remain unknown. Reports from official media indicate, however, that crimes allegedly committed on July 5 include crimes of endangering state security and that crimes committed by a first group of 83 people formally arrested include "gathering crowds to disrupt social order," "picking quarrels and making trouble," and "inciting ethnic hatred and discrimination," in addition to crimes like murder and arson.[81]

July 5 Demonstration in Urumqi—Continued

While acts of violence during the week of July 5 were reported to have been committed by both Uyghurs and Han, Chinese authorities appear to have downplayed Han violence[82] and focused plans for prosecution of suspected criminals involved in alleged crimes committed on July 5—many of which that day were reported to have been committed by Uyghurs—without precisely clarifying whether prosecution will extend to acts of violence committed by Han in the days following July 5.[83] Li Zhi, Urumqi Party Secretary during that time, said at a press conference on July 8 that authorities would use the death penalty for some crimes connected to events on July 5.[84] [See Section II—Criminal Justice, for more information on recent developments concerning the death penalty in China.]

Procedural Violations and Challenges To Mounting a Defense

Reports indicate procedural violations and challenges to mounting a criminal defense in connection to events on July 5. In the days after July 5, Uyghur women marched in protest to call for the release of family members detained in connection to events on July 5 and for information on their family members' whereabouts.[85] Under Articles 64(2) and 71(2) of the PRC Criminal Procedure Law, authorities must inform relatives or workplaces where detainees are being held.[86]

Authorities in Beijing and the XUAR issued orders dictating the terms upon which lawyers could be involved in cases related to events on July 5, and authorities also have reportedly warned human rights lawyers against taking the cases.[87] The Xinjiang Lawyers Association announced in late July that the XUAR Justice Department would select lawyers, with priority on Uyghurs, to represent "all those suspected of participating in the Xinjiang riots when they face trial," according to Chinese media.[88] The Uyghur lawyers participating in the defense will receive three to five days of training in criminal law, according to an official from the Xinjiang Lawyers Association, suggesting the XUAR Justice Department is including lawyers without extensive experience in criminal defense and is using the opportunity to direct the appointment of lawyers to enforce political agendas during the criminal process.[89] It is not clear whether authorities have informed suspects of the stated availability of defense counsel. An official media report from August 5 said that to date, no criminal suspects or defendants or their families had made any requests for legal assistance or defense counsel.[90]

July 5 Demonstration in Urumqi—Continued

Death Tolls Questioned

Chinese media reported on July 15 that 192 people had died in connection to events on July 5, with 1,721 wounded.[91] Uyghur sources from Urumqi and overseas have disputed the official number killed in the clashes and estimated higher death tolls, especially for Uyghurs.[92] Official sources have not clarified the precise details of each death and injury, and it appears that the reported deaths and injuries may be limited to those that took place only in connection to incidents on July 5 and not in connection to violence later in the week. In August, the XUAR government reported an increased death toll of 197 people in connection to July 5, 156 of whom were described as "innocent" people.[93] Some Uyghur sources and an overseas journalist reported cases of authorities dealing less strictly with Han who committed crimes or of failing to actively prevent or aid Uyghurs assaulted by Han.[94]

Controls Over Free Flow of Information

A number of details about events starting July 5 remained unknown in the days and weeks that followed, as the Chinese Government instituted controls over the flow of information on the events. Urumqi Party Secretary Li Zhi said on July 7, "We cut Internet connection in some areas of Urumqi in order to quench the riot quickly and prevent violence from spreading to other places."[95] Chinese media reported on July 24 that users within the XUAR, though not people outside the region, had been given access to government Web sites and some local media sites.[96] The Commission found that many news, government, and discussion Web sites remained blocked into October.[97] Authorities permitted limited access to foreign media, but journalists reported on repeated incidents of official interference with their ability to report freely on events in the region, including short-term detentions of some reporters, limits on whom reporters could interview, and the expulsion of reporters from the city of Kashgar.[98]

Demonstration Sheds Light on Reported Factory Attack, Underlying Problems in Labor Transfer Program

Uyghurs demonstrating in Urumqi were protesting government handling of a reported attack on Uyghur workers in late June by Han workers at a factory in Shaoguan city, Guangdong province, also described in Chinese sources as a "brawl" among the workers.[99] Following the incident, authorities sequestered the Uyghur factory workers.[100] Official sources reported that two Uyghurs died in the incident and 188 were injured.[101] Overseas Uyghur rights organizations estimated the number of dead was higher and criticized the government for failing to take steps to stop the attack and for its lack of transparency in handling the matter.[102] A public security official from Shaoguan reported on July 7—two days after the Urumqi demonstration—that authorities detained 15 people in connection to the incident.[103]

The Uyghur factory workers in Guangdong were there through a government-organized program to send people in the XUAR to factory jobs in the interior of China.[104] [For detailed information, see Labor Conditions in this section.]

July 5 Demonstration in Urumqi—Continued

September Demonstrations Highlight Ongoing Tensions

Demonstrations—primarily by Han Chinese—took place in Urumqi in early September, following the July 5 events by almost two months. During the September demonstrations, participants protested the government's response following events on July 5 and following reports that primarily Han residents of Urumqi alleged that persons they believed to be Uyghurs had randomly attacked them with syringes.[105] Some protesters and others reportedly attacked Uyghurs they believed had committed syringe attacks.[106] Police reportedly clashed with the protesters and used tear gas against them.[107] Authorities issued a circular during this time that bans unapproved demonstrations and allows the use of force to disperse crowds.[108] Media reported that five people died during one day of the demonstrations, two of whom were "innocent civilians," but did not provide additional details about the deaths.[109] During the demonstrations, protesters reportedly called for the resignation of XUAR Party Secretary Wang Lequan.[110] Xinhua reported that as of September 4, "local authorities had confirmed 531 victims of hypodermic syringe stabbings in Urumqi, 171 of whom showed obvious syringe marks," and reported that military medical specialists who examined cases of needle attacks found no evidence of viruses or chemicals.[111] In a rapid progression of the criminal process, by mid-September, authorities had imposed prison sentences on 7 people, apparently all Uyghurs, charged with crimes related to needle attacks or threatened attacks, and reported holding 75 people in custody.[112]

As in the case of the July demonstration, official media and government portrayals of the September demonstrations pinpointed activities by Uyghurs as the root of conflict and downplayed Uyghur sources of grievances. In addition, authorities attributed the syringe attacks to "separatists." For example, Minister of Public Security Meng Jianzhu described the syringe attacks as a continuation of attacks instigated by "ethnic separatist forces" on July 5.[113] Urumqi Vice Mayor Zhang Hong, who reported that Uyghurs had carried out the syringe attacks,[114] attributed the attacks to the "three forces" of terrorism, separatism, and religious extremism.[115]

Criminal Law and Access to Justice

Authorities in the Xinjiang Uyghur Autonomous Region (XUAR) continued in the past year to use the criminal justice system as a weapon for punishing dissent and penalizing peaceful expressions of ethnic identity and religious activity deemed "extremist" or "separatist." [For information on specific cases of imprisonment, see Controls Over Free Expression and Assembly in this section. See box titled July 5 Demonstration in Urumqi above, for information on criminal prosecution related to events on July 5.] Among other measures, XUAR authorities use the charge of "endangering state security" (ESS) in politically motivated prosecutions,[116] and reports from the past year indicated that the number of ESS cases in the XUAR in 2008 may have surged over previous years.[117] Crimes of ESS are defined in Articles 102–113 of the PRC Criminal Law to include acts such as separatism, espionage, and armed rebellion,

and many of the ESS crimes carry the possibility of life imprisonment or capital punishment.[118] XUAR media reported in January 2009 that courts in the XUAR completed trials in 2008 for a total of 268 cases involving ESS crimes, a figure approaching nationwide sums in the previous year.[119] In addition, official media reported that as of November 2008, XUAR procuratorate offices had issued indictments in 204 ESS cases within the year, involving 1,154 people, figures almost as high as nationwide ESS indictment totals in 2007 in terms of number of cases involved and approximately double in terms of individuals.[120]

Defendants and prisoners within the XUAR criminal justice system, including political prisoners, face continued risk of procedural violations, repercussions for aiming to defend their rights, and abuses while in prison. In November 2008, the UN Committee against Torture said it was "concerned with allegations raised in relation to acts of discrimination against and ill-treatment of persons of ethnic minority groups, in particular the Tibetans and the Uighurs, such as Ablikim Abdureyim, and with the alleged reluctance on the part of the police and authorities to conduct prompt, impartial and effective investigations into such acts of discrimination or violence[.]" [121] Ablikim Abdureyim, son of Uyghur rights advocate Rebiya Kadeer, continues to serve a nine-year prison sentence for "instigating and engaging in secessionist activities," based on charges that he allegedly disseminated pro-secession articles, planned to incite antigovernment protest, and wrote an essay misrepresenting human rights conditions in the XUAR.[122] The Uyghur American Association reported he is believed to have been tortured while in prison and denied medical care, while his brother Alim, serving a seven-year sentence on charges of tax evasion, is reported to have been tortured into confessing to the charges against him.[123] In the past year, authorities executed Abdurahman Azat and Kurbanjan Hemit, two men sentenced for involvement in a reported August 2008 terrorist attack, after reportedly trying them without legal counsel.[124] Kurbanjan Hemit reportedly was also beaten while in detention.[125] In March 2009, Radio Free Asia (RFA) reported that authorities have taken repercussions against imprisoned writer Nurmemet (Nurmuhemmet) Yasin since he met with UN Special Rapporteur on Torture Manfred Nowak during Nowak's 2005 mission to China, during which time Nurmemet Yasin reported mistreatment to Nowak. According to RFA, authorities reduced Nurmemet Yasin's family visits from every two months to twice a year and have restricted his activities within prison as punishment for having not "reformed his views." [126] Nurmemet Yasin is serving a 10-year prison sentence for "inciting splittism," after he wrote a short story about a pigeon that chooses death over life within a cage.[127] Reports also indicate procedural violations and challenges to mounting a criminal defense in connection to the July 5 demonstration in Urumqi and outbreaks of violence starting that day. [See box titled July 5 Demonstration in Urumqi above, for detailed information.]

The legal system in the XUAR functioned within an environment of heightened politicization throughout the past year, as ideological campaigns extended to legal institutions and as justice system officials identified upholding stability as the main goal of their work.

In August 2008, the head of the XUAR High People's Court "said [that XUAR courts] at all levels will always maintain high vigilance against ethnic separatism and illegal religious activities to safeguard the motherland's unity and national security and will give top priority to the trial of crimes endangering national security." [128] A January 2009 article from the Procuratorial Daily reported that "[s]ince 2008, all levels of the XUAR procuratorate have from start to finish taken safeguarding social stability as the utmost political task for strengthening legal supervision." [129] XUAR procuratorate officials participated in antiseparatism education in December that called on officials to recognize that "stability is above all else." [130] In a March speech, the Communist Party leading group secretary of the Xinjiang Lawyers Association called on lawyers to take antiseparatism, safeguarding unification of the country, promoting unity, and guaranteeing stability as the "primary political responsibilities" of lawyers' work.[131] At the local level, a March report from Zepu (Poskam) county, Kashgar district, described measures to strengthen security work through steps including mobilizing public security, procuratorate, court, and justice bureau staff to conduct nightly patrols.[132] Following the July 5 demonstration in Urumqi, the Party leading group in the Urumqi Intermediate People's Court launched antiseparatism education in the court, as well as in eight district courts in the municipality, calling for cadres and police in the courts to carry out the policy deployments of the Party Central Committee and XUAR government.[133] In late July, the Xinjiang Legal Aid Center reported that legal aid centers throughout the XUAR would be able to provide direct legal aid services to victims of events on July 5. The Center said it would select legal aid workers of "high political caliber" and professional skills, and called on legal aid centers to be united in their thinking and not let people in difficult circumstances be "used" by the "three forces." [134]

Non-Han ethnic groups in the XUAR also face systemic barriers in meeting their legal needs in both the criminal justice and civil law systems due to a shortage of legal workers who speak ethnic minority languages. According to a 2006 report from XUAR media, personnel shortcomings in XUAR courts have meant that "there is no way to guarantee the use of ethnic minority languages to carry out litigation," [135] although Chinese law guarantees citizens of all ethnicities the right to use their own languages in judicial proceedings.[136] According to 2007 reports from Chinese media, out of 4,552 judges in the XUAR—where non-Han ethnic groups comprise approximately 60 percent of the total general population according to official Chinese statistics[137]—1,948 judges were ethnic minorities.[138] As of September of that year, 380 lawyers, or 17 percent of the total number in the region were ethnic minorities,[139] up from 15 percent in 2006.[140] The reports on the number of lawyers and judges did not identify the language capabilities of these groups.[141] In a 2008 article, a lawyer reported that in the city of Tacheng (Chöchek), eight lawyers were ethnic minorities and only four could understand ethnic minority languages.[142] Outside the XUAR, the Supreme People's Court (SPC) reported in 2007 on taking steps to address a need for personnel and translators who speak ethnic minority languages since the SPC returned in 2007 to

the process of reviewing all death sentences meted out within China.[143] Authorities within the XUAR reported in 2009 on making progress in translating national and local legislation into Uyghur.[144] In May 2009, Chinese media reported that a legal aid station described as the XUAR's first to focus on ethnic minorities, opened under the supervision of the Urumqi Legal Aid Center.[145]

Freedom of Religion

Conditions for religious freedom in the Xinjiang Uyghur Autonomous Region deteriorated in the past year. [For detailed information, see Section II—Freedom of Religion—China's Religious Communities—Islam.]

Controls Over Free Expression and Assembly

The forceful police suppression of the July 5 demonstration in Urumqi, ensuing official steps to punish peaceful protest, and subsequent measures to block the free flow of information underscored longstanding controls in the Xinjiang Uyghur Autonomous Region (XUAR) to block free speech and harass, detain, and imprison people for peaceful forms of expression and assembly. Many details about people detained for exercising their rights to freedom of expression and assembly, however, remained unknown in the face of ongoing controls over the free flow of information and efforts to restrict the activities of journalists. Authorities again quelled protests, imposed a ban on demonstrations, and continued controls over the free flow of information amid demonstrations and reported needle attacks in Urumqi in early September. [See box titled July 5 Demonstration in Urumqi above, for detailed information on events in July and September.]

Prior to the July 5 demonstration, authorities continued to implement steps to restrict free expression and harass, detain, or imprison people for exercising their rights to freedom of expression and assembly. In December 2008, XUAR media reported that Urumqi authorities detained Miradil (Mir'adil) Yasin and Mutellip Téyip after the two young men distributed leaflets on the Xinjiang University campus calling on students to organize a public demonstration.[146] University officials said the leaflets had "reactionary" content aimed at "inciting students to demonstrate in the streets and create chaos."[147] Available information suggests the leaflets may have called on students to peacefully protest tobacco and alcohol sales.[148] Miradil Yasin and Mutellip Téyip's whereabouts remain unknown. Following their detention, and after two other universities also reported finding leaflets, the three universities involved reported taking measures to strengthen propaganda campaigns and oversight of students, including through "supervision and control" of technologies such as the Internet and cell phone messaging.[149] In March, Chinese media reported that procuratorate officials initiated prosecution against a young man identified only as "Ya," after he allegedly "spread rumors" on the Internet about a clash that broke out in January at an Internet cafe in Shayar county, Aqsu district.[150] The report said that "Ya" fabricated the nature of the clash, reporting that Han Chinese had beaten and killed a Uyghur youth, describing police indifference to

the matter, and reporting that over 500 Uyghurs took to the streets to demonstrate. The report said that "Ya's" article was then used by "splittist" Web sites overseas that aimed to "disrupt ethnic unity" and "influence social stability."[151] Also in March, official media reported that in June 2008, authorities in Hoten district intercepted and arrested people described as members of Hizb ut-Tahrir who planned to "sabotage" the Olympics torch relay.[152] The report said that authorities found the group traveling in a vehicle carrying a computer, printer, and "reactionary" leaflets.[153] Also in March, the Uyghur American Association reported that a court in Hoten city, Hoten district, sentenced Abdukadir Mahsum to 15 years in prison in February for his activities organizing peaceful demonstrations in Hoten in March 2008 to protest government human rights abuses.[154] In April 2009, Radio Free Asia obtained information that on February 28, 2008, the Turpan Intermediate People's Court sentenced a young Uyghur man, Ekberjan Jamal, to 10 years in prison for "splittism" and revealing state secrets after he used his cell phone to make audio recordings of shopkeepers' demonstrations in Turpan in November 2007 and sent the recordings to friends overseas.[155]

The Commission tracked new information on two longstanding cases of Uyghurs imprisoned for exercising their rights to free expression, while developments in some other cases remained unknown. In February 2009, authorities released Uyghur historian Tohti Tunyaz from prison upon completion of his 11-year sentence for "inciting splittism" and "unlawfully obtaining state secrets." Authorities had based the charges on a list of documents that Tohti Tunyaz obtained from an official librarian in the course of research on Uyghur history and on a "separatist book" they claimed he had published.[156] Following his release, authorities did not let him return to Japan, where he had previously lived and where his wife and children currently reside.[157] As noted above, media reported in 2009 that imprisoned writer Nurmemet (Nurmuhemmet) Yasin has faced restrictions on family visits and activities within prison since he met with the UN Special Rapporteur on Torture in late 2005.[158] The whereabouts of Mehbube Ablesh, fired from her job in August 2008 and placed in detention in apparent connection to articles she wrote for the Internet that criticized Chinese Government policy, remain unknown.[159]

Internet censorship of a Web site that focuses on the Uyghur community continued in the past year and involved at least one case of detention of the Web site's staff.[160] In spring 2009, authorities shut down the Web site Uyghur Online, a multi-language news and discussion forum that addressed issues of ethnicity in China, and interrogated Beijing-based scholar Ilham Tohti, who runs the site.[161] Authorities later detained Ilham Tohti in July,[162] after XUAR government chairperson Nur Bekri alleged that Ilham Tohti's Web site contributed to incitement of rioting in Urumqi on July 5.[163] Authorities released Ilham Tohti from detention on August 2.[164] The whereabouts of some other Uyghur Online staff members are reportedly unknown.[165]

XUAR authorities also engaged in censorship campaigns throughout the year. In early 2008, the XUAR Propaganda Bureau announced it would make "illegal" political and religious publica-

tions the focal point that year for its campaign to "Sweep Away Pornography and Strike Down Illegal Publications."[166] In 2008 and 2009, the XUAR government and local governments reported on censorship efforts that included the confiscation of "illegal" religious and political publications.[167] Of a total of 877,193 copies of items confiscated in the XUAR in 2008, a figure which also includes pirated goods, 29,905 were items of an "illegal" political nature.[168] In 2009, XUAR authorities established a fund to reward efforts to "purify" the cultural market, with a focus on "illegal" religious and political publications.[169] [See Section II—Freedom of Religion—China's Religious Communities—Islam for additional information on steps to confiscate or censor religious material.]

Language Policy and Bilingual Education

The government of the Xinjiang Uyghur Autonomous Region (XUAR) took steps in the past year to strengthen implementation of "bilingual" education,[170] a program which has marginalized the use of Uyghur and other languages in XUAR schools by reducing or eliminating class instruction in languages other than Mandarin Chinese. The Mandarin-centered "bilingual" education policy violates Chinese legal provisions that protect and promote the use of ethnic minority languages, which form part of broader legal guarantees to protect ethnic minority rights and allow autonomy in ethnic minority areas.[171] Authorities have justified "bilingual" education as a way of "raising the quality" of ethnic minority students and have tied knowledge of Mandarin to campaigns promoting patriotism, ethnic unity, and stability.[172] In a June 2009 article from official media describing "bilingual" education as a policy "in which Mandarin is used as the language of instruction and minority languages are taught as a [separate] subject," XUAR government chairperson Nur Bekri stated that teaching Mandarin would help the region resist terrorism because "[t]errorists from neighboring countries mainly target [Uyghurs who] are relatively isolated from mainstream society as they cannot speak Mandarin."[173] Nur Bekri's statement that Uyghurs without Mandarin skills are isolated from mainstream society underscores the failures of the government to protect the languages of non-Han ethnic groups and maintain their use as lingua franca within a region putatively created to safeguard and promote local languages as one component of regional ethnic autonomy. The recent efforts to bolster "bilingual education," coupled with reduced opportunities for higher education in languages other than Mandarin, have entrenched an incentive structure for younger students to study in Mandarin at the expense of other languages. While educational programs that diminish the use of languages other than Mandarin now respond to a growing need for fluency in Mandarin to achieve professional advancement, XUAR officials do not acknowledge that the need stems from government failures to implement autonomy in ethnic minority regions as provided in Chinese law.[174]

Authorities bolstered capacity to implement "bilingual" education in 2008 and 2009 by investing more money in the program and increasing the number of "bilingual" teachers in the region. In 2008, the government pledged 3.75 billion yuan (US$549 million) for "bilingual" preschool education and called for achieving a target rate

of over 85 percent of ethnic minority children in rural areas receiving "bilingual" education by 2012.[175] The number represents almost a nine-fold increase in funding over amounts pledged in 2006, and coupled with a lengthened timeline for realizing targets, suggests a more realistic and firmer commitment to the program.[176] In fall 2008, official media reported the region would recruit 15,600 "bilingual" elementary school teachers between 2008 and 2013, to address the problem of students who received "bilingual" preschool education who are unable to continue "bilingual" schooling due to a "bilingual" teacher shortage in elementary schools.[177] The XUAR Education Department also reported taking steps to increase "bilingual" teacher training in the southern XUAR,[178] increasing the yearly total of teachers to receive training.[179] In the past year, Chinese media also reported that 10 colleges and universities outside the XUAR would dispatch students to the region to meet teacher shortages.[180] In addition, authorities reported on efforts to bolster "bilingual" teacher training at the preschool level. One program will provide 573 graduates of junior high schools in the southern XUAR with two years of free "bilingual" teacher training, the first year of which will focus on "strengthening [trainees'] political quality" and Mandarin skills.[181]

The promotion of Mandarin-focused "bilingual" education has had a negative impact on the career prospects of non-Han teachers, who face Mandarin language skill requirements if their primary teaching language is another language.[182] Older teachers in particular and those who do not meet political requirements face additional barriers in trying to conform to the requirements of the government's "bilingual" education policy.[183] A May 2008 draft opinion on bolstering "bilingual" education called for giving "appropriate placements" to older teachers with poor Mandarin skills and for not allowing teachers without "bilingual" teaching skills to enter the teaching force.[184] A XUAR government circular on "bilingual" teacher training issued in June 2008 stipulated that teachers who receive training should "in principle be below 35 years of age." It also required that participants have a "higher" political consciousness and hold appropriate viewpoints toward religion, ethnicity, and the Marxist state, as well as hold loyalty to the Communist Party.[185]

While the XUAR government reports that it has not fully implemented "bilingual" education throughout all XUAR schools, statistics indicate that the number of students enrolled in Mandarin-focused "bilingual" education continues to increase.[186] Official Chinese media reported that by 2006, the number of students receiving "bilingual" education in the XUAR had expanded 50-fold within six years.[187] According to official statistics, by October 2008, the number of non-Han students in preschools through high schools in the XUAR who received "bilingual" education increased by more than 125,000 students over the previous year, representing 25.4 percent of the non-Han student population. Combined with students studying in longstanding programs that track non-Han students directly into Mandarin Chinese schooling, the total reached 36.5 percent of the non-Han student population.[188] Implementation within specific areas varies.[189]

The Commission noted in its 2008 Annual Report that although the long-term impact remains unclear, sustained implementation of Mandarin-focused "bilingual" education and other Mandarin-focused language policies increases the risk that Uyghur and other non-Mandarin languages are eventually reduced to cultural relics rather than actively used languages in the XUAR.[190] The report also observed that the Chinese Government's current stance on "bilingual" education hinders productive dialogue on ways to carry forward policies in a manner to protect these languages.[191] In March 2008, XUAR Chair Nur Bekri described criticisms of "bilingual" education as an attack from the "three forces" of terrorism, separatism, and extremism operating outside China.[192]

Government-Promoted Migration, Population Resettlement, and Restrictions on Freedom of Movement

GOVERNMENT-PROMOTED MIGRATION POLICIES

Central government migration policies directed at the Xinjiang Uyghur Autonomous Region (XUAR) continue to bring demographic changes to the region that disadvantage local populations and that undermine regional autonomy. While the Commission supports Chinese Government liberalizations that give citizens more choice to determine their places of residence, it remains concerned about such government migration policies that use economic and social benefits to channel migration to the XUAR. For example, national legal provisions implemented in 2005 provide "preferential" working and living conditions, along with "special treatment in employment and schooling," to settlers and their dependents in the XUAR and other designated ethnic minority areas.[193] Migration policies to date, including government-mandated resettlement in past decades and current migration incentives, have broadly shifted the demographic make-up of the region.[194] Demographic shifts, facilitated by government policy, have skewed employment prospects in favor of Han Chinese and funneled resources in their favor.[195] Migration also has affected the preservation of Uyghur culture and language. Scholar Gardner Bovingdon notes that "Han immigration and state policies have dramatically increased the pressure on Uyghurs to assimilate linguistically and culturally, seemingly contradicting the explicit protections of the constitution and the laws on autonomy[.]"[196]

Government policy in such areas as security maintenance, development, and language use fuel the government's perceived need for migration. The government ties migration policies to the promotion of economic development and maintenance of "stability" and "ethnic unity" in the region.[197] A 2008 report from the State Ethnic Affairs Commission stated that "work to dispatch cadres and specialized talent to Tibet, Xinjiang, and remote ethnic minority border regions has strengthened ethnic unity and safeguarded social stability and the unification of the state."[198] As the promotion of "bilingual" education in the XUAR has forced a need for more Mandarin speakers, the government has met teacher shortages in part by bringing teachers and student-teachers to the XUAR from elsewhere in China.[199] In 2008, XUAR authorities reported that in the past five years, it had supplemented its teaching corps, with a focus on "bi-

lingual" teachers, by 17,000 people from within the XUAR as well as outside provinces.[200] The Xinjiang Education Department announced in May 2009 that the government would recruit 9,339 teachers nationwide that year to take up posts in cities and rural areas in the region, with a focus on "bilingual" teachers for posts at the rural level.[201]

RESETTLEMENT AND RESTRICTIONS ON FREEDOM OF MOVEMENT

The Commission tracked during the past year steps to resettle local XUAR populations, control freedom of movement, and monitor "floating populations." In February, XUAR authorities detailed plans to relocate 220,000 residents of the historic, predominantly Uyghur "Old City" section of Kashgar—roughly half of the population of the city of Kashgar—and resettle many to high-rise buildings on the outskirts of the city, in a reported effort to provide earthquake-proof housing. Some residents have reported opposing the project but say they lack the means to challenge the government. In addition, some residents have reported receiving no information about compensation or inadequate compensation. [See box titled Demolition of Kashgar's Old City below for detailed information.] In April 2009, official media in the Ili Kazakh Autonomous Region reported investing 20 million yuan (US$2.9 million) to resettle herders.[202] Overseas reports continued to carry information that authorities confiscate Uyghurs' passports in an effort to curb unauthorized pilgrimages.[203] [See Section II—Freedom of Religion for more information.] As part of measures to uphold perceived threats to stability in the past year, local governments reported taking steps to tighten controls over various categories of people deemed to comprise "floating populations."[204] Following the July 5 demonstration, the Urumqi municipal government tightened oversight of rental housing, a measure that was a response to the presence of unregistered migrants who participated in events on July 5, according to an official cited in a South China Morning Post article.[205]

Continuing Risks for Uyghur Refugees and Migrants

The Commission noted in its 2008 Annual Report that Chinese Government repression in the Xinjiang Uyghur Autonomous Region (XUAR) has forced some Uyghurs into exile, where depending on their destination or transit country, they face an uncertain legal status, barriers to local asylum proceedings, and risk of refoulement to China under the sway of Chinese influence and in violation of international protections.[206] The report also noted that Uyghur migrants outside the refugee and asylum-seeker population also face dangers, as China's increasing influence in neighboring countries has made Uyghur communities there vulnerable to harassment and to deportation proceedings without adequate safeguards.[207] In this reporting year, the Commission tracked continuing risks for these populations.

Continuing Risks for Uyghur Refugees and Migrants—Continued

- At the Commission's May 2009 roundtable on "The Rising Stakes of Refugee Issues in China," panelist Sean Roberts spoke on conditions for Uyghur refugees and asylum seekers. He said that "China's soft-power influence has not only been employed to discourage countries from taking asylum-seekers; it has also been used to make countries one might think would be sympathetic to the plight of the Uyghurs willingly extradite those who might qualify for political asylum back to China to face prison terms and/or execution." [208]
- A June 2009 report indicated that the Kazakh government has begun to discuss a bill that would align local treatment of refugees to international standards, but that in the meantime, most asylum-seekers and refugees in the country, including Uyghurs from China, remain vulnerable to the government's current policy of denying protection to these groups.[209]
- Huseyin Celil, an ethnic Uyghur originally from the XUAR and a naturalized Canadian citizen who had received refugee status from the UN High Commissioner for Refugees, continues to serve a life sentence in China for alleged separatist and terrorism-related offenses. Uzbek authorities had extradited him to China in 2006, while he was visiting his wife's relatives there.[210]
- The Commission tracked reports in the past year of Uyghurs extradited to China, despite risk of torture.[211]
  - Pakistani media reported in April and June 2009 that Pakistani authorities had turned over groups of 9 and 10 people, respectively, to the Chinese Government.[212] The reports said the people returned to China, described as "militants" in one case and members of the East Turkistan Islamic Movement in the second, were returned to China based on bilateral agreements between the two countries on fighting against "militancy and extremism." [213]

Population Planning Policies

Xinjiang Uyghur Autonomous Region (XUAR) authorities have continued to enforce measures to control population growth that target non-Han ethnic groups.[214] In 2009, in a meeting at which XUAR population planning offices signed "responsibility certificates" regarding population targets for the year, authorities stressed strengthening population planning work in rural areas in the southern XUAR, which has a predominantly non-Han population.[215] The steps build on earlier measures to target population planning in predominantly non-Han areas within the XUAR.[216] According to information from the XUAR Population and Family Planning Commission, conditions regarding population growth in the XUAR in 2008 were "comparatively grim," and both central and XUAR authorities would increase investment in 2009 to meet population control targets dictated by the central government.[217]

The XUAR government maintained population planning policies in the past year that reflected continued controls over women's reproductive decisions, and one reported case highlighted official abuses engendered by the population planning system. According to reports from overseas media, in November 2008, local authorities

within the Ili Kazakh Autonomous Prefecture announced plans to force Arzigul (Arzugül) Tursun, a villager from Ghulja county who was six months pregnant with her third child, to undergo an abortion after she was unable to pay a 45,000 yuan (US$6,591) fine for exceeding the number of births permitted under the region's population planning regulation,[218] an order which appears to have no basis in law.[219] Following international advocacy on Arzigul Tursun's behalf, authorities released her from the hospital without carrying out the abortion, but continued to subject her and her family to harassment and surveillance.[220] It is unclear if local authorities faced penalties for their plans to subject Arzigul Tursun to a forced abortion.[221] As noted in Section II—Population Planning, the use of mechanisms that link population planning officials' career advancement to their enforcement of set birth quotas has created an incentive structure for officials to use coercive measures to meet population goals. [For additional information, see Section II—Population Planning.]

Development

The government imposes top-down development policies in the Xinjiang Uyghur Autonomous Region (XUAR) that exacerbate inequalities and deny local residents the autonomy to chart their own course of development. Scholar Calla Wiemer has noted that "in an effort to ensure stability in a frontier area," the central government "has more actively asserted its control over development in Xinjiang than in any other region."[222] While development efforts have brought economic improvements to the region,[223] they also have spurred migration,[224] strained local resources,[225] and disproportionately benefited Han.[226] Han have benefited through development projects targeting Han-majority regions and development-related employment prospects that privilege Han areas of the XUAR and Han employees, including migrants.[227] In the past year, the government described implementing measures to improve conditions in the predominantly non-Han area of the southern XUAR (see below for details).[228]

Development policies implemented in the past year remained intertwined with political controls and government objectives to uphold stability. In December 2008, XUAR authorities issued an opinion on accelerating rural reform and development, combining policies described as aiming to improve economic conditions in rural areas with steps to promote continued political controls in areas such as strengthening the management of religious affairs and deepening campaigns on ethnic unity and antiseparatism.[229] Development goals listed in the opinion also included integrating economic and social development between rural and urban areas and implementing preferential development policies in the southern XUAR to close the gap in conditions between southern and northern regions of the XUAR.[230] The opinion's attention to the southern XUAR preceded news of specific measures to support the area. XUAR media reported in January 2009 that the central government would subsidize 53.4 billion yuan (US$7.8 billion) for a five-year period starting in 2009 to support development in three southern XUAR districts.[231] The government also proposed providing free high school education to students in these districts, in a meas-

ure designed both to promote vocational skills and uphold "social security and stability," according to the Communist Party secretary of the XUAR Education Department.[232]

Labor Conditions

DISCRIMINATION

Non-Han ethnic groups in the Xinjiang Uyghur Autonomous Region (XUAR) continued to face discrimination in job recruitment during the past year.[233] The Commission observed discrimination in both state jobs and private sector employment, including private sector jobs publicized by local governments.[234] The practices indicate both direct government involvement in discriminatory practices and endorsement of or failure to prevent such practices in private job recruitment.[235] Such practices contravene provisions in the PRC Constitution and in Chinese laws that forbid discrimination.[236] Among the multiple examples of discriminatory practices the Commission found in the past year, the Xinjiang Production and Construction Corps (XPCC) recruited within the XUAR in May for 894 positions, reserving 744 positions for Han Chinese. Of the remaining positions, 137 were specified as unrestricted by ethnicity and thus open to applicants of all ethnic groups including Han, while 11 positions were reserved for Uyghurs and 2 positions reserved for Kazakhs.[237] During job recruitment the same month for teachers in Aqsu district, 347 of 436 open positions in district schools were reserved for Han, while the remaining 89 positions were reserved for Uyghurs.[238] In September 2008, a mining company advertising on the Web site of the Fuyun (Koktoqay) county government in Altay district, Ili Kazakh Autonomous Prefecture, recruited only for Han to fill 18 open positions.[239]

The barriers to employment for non-Han job candidates come during a period of high unemployment in the XUAR, including for college graduates.[240] As part of efforts to promote employment for college graduates through programs that send education and medical workers to rural areas, authorities within the XUAR said in March 2009 that they would give priority to hiring ethnic minority candidates, and the government also pledged to focus job training on ethnic minorities.[241] In an examination of job recruitment announcements following the pledges, the Commission found limited information on the implementation of measures to encourage the hiring of non-Han candidates, while it observed continuing restrictions toward non-Han job candidates in jobs including the XPCC positions and teaching positions in Aqsu discussed above.[242]

LABOR TRANSFERS

The July 5 demonstration in Urumqi, in which demonstrators protested the government's handling of a reported attack on Uyghur workers at a factory in Guangdong province, drew international attention to government-sponsored programs in the XUAR to transfer the rural labor force in the region to jobs in the interior of China. Some workers involved in the programs continued in the past year to report abusive labor practices, including the use of coercion by local officials to gain their participation and abusive working conditions. In a July 2009 Washington Post article, some

sources reported that authorities coerced families in villages in Kashgar district to send a family member to join the labor program by threatening families with a steep fine for noncompliance.[243] Sources also reported penalities for noncompliance—including some fines equivalent to a half year's wages—in a July New York Times article.[244] In the Washington Post article, a factory owner in Hebei province said that most Uyghur workers sent to his factory, who were supervised in the factory by a police officer from the XUAR, were not there voluntarily. He also reported that authorities made fake IDs and that minors, some 14 years old, were among the workers.[245] In a series of spring 2009 articles from Radio Free Asia, teenage workers and family members involved in the program to transfer people to factory jobs outside the XUAR reported being coerced by local officials into participating and pressured to use fraudulent methods to make teenagers appear to meet the legal working age in China and the stipulated working age of the factory employing the workers.[246] The reports also described other abuses such as physical beatings within factories, forcing some sick workers to work, and fining a worker who returned home due to illness.[247] The 2009 reports follow information from earlier years of abusive labor practices within the government-sponsored programs.[248]

Following the July 5 demonstration, XUAR government chairperson Nur Bekri denied that workers were coerced into participating in the government-led labor transfer programs—versions of which exist elsewhere in China[249]—and described the programs as a means for XUAR residents to earn income and gain job training.[250] Some workers cited by overseas media also have described participating voluntarily.[251] At least one official report indicated, however, that workers face tight oversight. Nur Bekri was quoted by Xinhua as saying, "After their arrival in the interior of the country, rural migrant workers from Xinjiang have to go through a process of [adaptation], during which the parties concerned may exercise appropriately closed or semi-closed management over them in order to prevent them from getting lost or being involved in an accident."[252]

Available information from overseas and official Chinese sources suggests that young non-Han women comprise many of the workers transferred.[253] According to a January 2009 report from official Chinese media, rural women formed 80 percent of the "surplus labor force" shifted to jobs elsewhere in the XUAR or in the interior of China in 2007, a figure which appears to include people transferred to jobs through government-sponsored programs as well as through other means.[254] A Party official cited in the story, who noted that ethnic minorities formed the majority of the rural population, described "conservative thinking" and "backward ideas" as sources of resistance to the transfer of the female rural labor force.[255]

A government opinion issued in December 2008 on accelerating rural reform and development in the XUAR (discussed above) called for training local workers and prioritizing XUAR residents for construction, service, and industry jobs in the region, but also called for expanding the export of the local labor force.[256] In late July, an official said work to transfer the labor force could not be

influenced by the "incidents" in Guangdong province in June and in Urumqi on July 5.[257]

FORCED LABOR

Overseas media reported in the past year on cases of authorities in the XUAR imposing forced labor on local farmers.[258] In January 2009, farmers in Yéngisar county, Kashgar district, told Radio Free Asia (RFA) that local authorities forced them to work without pay during fixed periods of the year.[259] In March 2009, RFA reported learning from contact with a resident of a township in Aqsu municipality, Aqsu district, that authorities had required farmers to plant trees in the municipality, without paying them for their work.[260] Official Chinese media reported on the event as a tree-planting activity for cadres and residents within a district in the municipality, reported to be the first area in northwest China to receive the title "National Forest City."[261] The report provided no details on how or if workers were compensated.[262]

WORK-STUDY

The XUAR government continued in 2008 to force students to participate in controversial "work-study" programs to do manual labor, but issued a circular to prevent students in junior high school and lower grades from participating in activities to pick cotton.[263] The circular appeared to leave intact other forms of work-study activities for elementary and junior high school students, while leaving high school, college, and technical school students to continue picking cotton in work-study programs.[264] Based on Commission monitoring, the circular's effectiveness was unclear, as at least one city in the XUAR reported continuing to make junior high school students pick cotton.[265] Although work-study programs exist throughout China, the XUAR work-study program reflects several features unique to the region.[266] The central government holds close control over the XUAR economy, including through directly administered Xinjiang Production and Construction Corps farms that harvest cotton.[267] The central government placed special focus on supporting the XUAR's cotton industry during its 11th Five-Year Program, and the decision to use XUAR students to pick cotton reportedly came from the central government.[268]

Right to Culture and the Protection of Cultural Heritage

The preservation of a cornerstone of the Uyghurs' cultural heritage came under attack in the past year from a government project to demolish buildings and "reconstruct" the historic Silk Road "Old City" section of Kashgar, after authorities determined few structures in the nationally designated historic area had preservation value. [See box titled Demolition of Kashgar's Old City below for detailed information.]

Effects of Nuclear Testing

New information emerged in the past year over the extent of possible damage resulting from nuclear tests conducted in the Xinjiang Uyghur Autonomous Region from the 1960s to the 1990s. [See Section II—Climate Change and Environment for more information.]

Demolition of Kashgar's Old City

Introduction

Under a 30 billion yuan (US$4.39 billion) project launched in late February 2009 with funds from the central and XUAR governments, authorities will demolish and "reconstruct" the Old City of Kashgar within a five-year period and resettle roughly 50,000 households, or more than 200,000 people, according to reports from Chinese Government and media sources.[269] According to Chinese media and government reports, the first group of residents affected by the initial stages of the project have been resettled in earthquake-proof high-rises in a suburb of the city.[270] One media source reported that all the Old City families resettled as a result of the project will receive monetary compensation or replacement housing.[271] Overseas media reports, citing local residents, have raised questions about the adequacy of compensation, however, and the scope of local support for the project.

Demolition and Resettlement Plans Linked to Ethnic Issues

In addition to stated concerns about earthquakes, government and media sources have linked the project to policies toward security and ethnic issues in the region.[272] A government official emphasized political concerns about the demolition, describing Kashgar as an area where Uyghurs are most heavily concentrated and an area in the "front ranks" in the XUAR's fight against separatism, terrorism, and infiltration.[273] At a February meeting, authorities also stressed the political gravity of the issue and said that officials who didn't comply with their responsibilities to enforce the demolition project would be dismissed.[274]

Preservation Efforts Minimal—Most Buildings To Be Demolished

At an August 2008 meeting to discuss the "reconstruction" of the Old City, officials indicated that efforts to preserve existing structures would be minimal. Speaking at the event, the Kashgar district Communist Party secretary described the "reconstruction" of the Old City as a "human-centered" project and stressed that "what [the project] will protect is a construction style with ethnic features, and what it won't protect is dangerous old raw earth houses that endanger the people's safety."[275] Noting that the Old City contained the world's largest complex of raw earth structures, a government official spoke of the importance of preserving the "historical style and regional features" of the Old City, but cautioned against wide-scale preservation, stating instead that authorities would only protect the "very few" buildings that had preservation value.[276]

Demolition of Kashgar's Old City—Continued

Framework for Heritage Protection Weak

Details of the Kashgar demolition project indicate failures in both the project's capacity to protect the cultural heritage of the Old City as well as in the Chinese Government's overall framework for cultural heritage protection, including as it relates to ethnic minorities' right to preserve their culture. In addition, the project fails to clarify how the determination that few buildings hold preservation value relates to Kashgar's designation as a national-level historic and cultural city with historic districts within the Old City. Kashgar received the designation in 1986,[277] and since then, the Chinese Government has codified its process for designating and protecting historic cities into a Regulation on the Protection of Famous Historic and Cultural Cities, Towns, and Villages (Historic Cities Regulation).[278] Despite stipulating protections for historic areas, however, some provisions within the Historic Cities Regulation are defined poorly, thus appearing to permit wide latitude in determining what kind of structures qualify for legal protections.[279] In the case of the Kashgar project, ambiguities in the framework for heritage protection appear to contribute to the formal leeway for authorities to take a narrow view of which structures have historic value and qualify for protection, thus removing most of the buildings in the Old City from the formal protections of the Historic Cities Regulation.

Despite the determination that few buildings have preservation value, according to one overseas scholar describing Kashgar before the Old City demolition, "Kashgar is the best-preserved example of a traditional Islamic city to be found anywhere in Central Asia."[280] A 2007 report from the Kashgar district government also stressed the city's importance as a historic area.[281]

Details of the project also suggest that authorities have bypassed ways to protect Old City residents' safety while preserving existing buildings. Standards set by professionals in the field of cultural heritage preservation indicate compatibility between historic preservation and measures to guard against natural disaster.[282]

XUAR Residents, NGO, Overseas Observers Object to Project

Reports from overseas media have indicated opposition to the project from local residents and some local officials, as well as concerns from local residents and outside observers about housing resettlement and historic preservation.[283] An official from the Kashgar cultural relics management office, cited in one article, for example, said that the project was being implemented without adequate attention to historic preservation, and another official expressed concern about resettled residents' ability to sustain their livelihoods, many of which were tied to workshops within the Old City.[284]

Demolition of Kashgar's Old City—Continued

Information from overseas reports also raises questions about the process of consulting with residents on the project and on adequate compensation. Two men cited in one overseas media report said they had received no information about compensation and did not know where they would be relocated to, while other sources said that the government had not consulted with them about the demolition.[285] Some Kashgar residents cited in another article said that compensation amounts were inadequate.[286] Some residents indicated dissatisfaction with the project but said they lacked the means to challenge the government.[287]

Shortcomings in Property Protection, Curbs Over Cultural Rights

The complaints by residents affected by the project reflect continuing problems with property seizure and resettlement in China. Scholar Mo Zhang, who has examined the Chinese Government's current framework for property protection, noted that the 2007 PRC Property Law, which includes protections for private property rights, addresses expropriation of and compensation for property (Article 42), but lacks clear standards for determining compensation and for defining the "public interest" necessary to allow a taking.[288]

In addition, although the XUAR is an officially designated ethnic minority autonomous region with legally stipulated guarantees for "ethnic minorities' right to administer their internal affairs" and measures to protect ethnic minority culture and cultural heritage, the Kashgar project also highlights the failure of the government to protect such rights in practice.[289] The project is said to have "unusually strong backing high in the government," according to one report.[290]

V. Tibet

Introduction: Tibetans Persist With Protest, Government Strengthens Unpopular Policies

During the Commission's 2009 reporting year, the Chinese Government and Communist Party strengthened the policies and measures that frustrated Tibetans prior to the wave of Tibetan protests that started in March 2008. Such policies and measures include: refusing to engage the Dalai Lama in meaningful talks; amplifying the scope and hostility of the anti-Dalai campaign; increasing the repression and control of religious freedom for Tibetans; poor implementation of the PRC Regional Ethnic Autonomy Law; and strengthening economic development initiatives that will increase further the influx of non-Tibetans into the Tibetan autonomous areas of China (and in doing so, increase the pressure on the Tibetan culture and heritage).

The Chinese Government continued to state that Chinese policies in Tibetan areas are a success and in the past year adopted a more assertive stance in pressuring other governments to abandon support of the Dalai Lama and instead to support the Chinese Government position on Tibetan issues. The Chinese Government, to a large extent, bases its positive representation of conditions in Tibetan areas on economic growth data, and on selective comparisons between pre-1949 Tibet[1] and post-1978 reform-era China.

Tibetans continued during this reporting year to express their rejection of Chinese policies by means that included staging political protests that typically called for the Dalai Lama's return to Tibet and for Tibetan independence or freedom. The presence of additional security forces, including People's Armed Police, in areas where Tibetan protests took place in spring 2008 may have succeeded at limiting Tibetan protests, but not at stopping them entirely. Government measures to prevent information about Tibetan protests and protesters from leaving China have hindered human rights monitoring organizations from providing an adequate account of protests and their consequences.

As a result of Chinese Government and Party policy and implementation, and official campaigns to "educate" Tibetans about their obligations to conform to policy and law that many Tibetans believe harm their cultural identity and heritage, the level of repression of Tibetans' freedoms of speech, religion, assembly, and association increased further.

Government Shifts Toward More Aggressive International Policy on Tibet Issue

Senior Chinese Government and Communist Party leaders speaking during the Commission's 2009 reporting year, along with articles published in China's state-controlled media, show that the leadership has increased the importance it attaches to the Tibet issue.[2] Statements and reports indicate that the Chinese Government may seek to utilize economic leverage to pressure other governments to support the Chinese Government's positions on Tibet.[3] State Councilor Dai Bingguo, speaking in December 2008 before the Brookings Institution about the 30th anniversary of the estab-

lishment of U.S.-China diplomatic relations, placed Tibet alongside Taiwan as one of China's two "core interests":

> To realize greater growth of China-U.S. relations, the key link is to make sure we handle well issues involving each other's core interests and maintain and develop the strategic underpinning of our cooperation. Taiwan and Tibet-related issues concern China's core interests. The Chinese people have an unshakable determination to defend our core interests.[4]

China's state-run media published articles and opinions urging the Chinese leadership to press other governments to support the Chinese Government position on Tibet if other governments wish to have China's support on international issues (including on economic issues). A March 2009 People's Daily opinion observed that as China rises, "the rest of the world" needs "greater cooperation with China."[5] Such cooperation will be "impossible," the opinion said, unless "the West . . . develops an objective and unbiased stance on Tibet."[6] People's Daily concluded that without a "correct understanding" of the Tibet issue, "it is impossible to advance cooperation with China in a sincere manner."[7] A March 2009 China Daily opinion advocated for the emergence of a "China doctrine" that would establish Tibet as a "core concern" for China.[8] A norm of such a doctrine would be for all countries to deny entry to the Dalai Lama, the China Daily opinion said, citing a recommendation that Foreign Minister Yang Jiechi made in a March 7 press conference.[9]

The notion that international support for the Dalai Lama could expose China to the threat of breakup, a topic that stirs a sense of nationalism among the Chinese people, is unsupported by the issues that the Chinese Government and state media identify.[10] The premise that the Chinese Government should adopt a more aggressive Tibet policy, and use economic and other leverage to pressure governments to assist China in preventing China's breakup by denying the Dalai Lama entry into other countries, is flawed for at least two reasons. First, the Dalai Lama continues to state that he seeks genuine autonomy for Tibet, not independence. [See Status of Negotiations Between the Chinese Government and the Dalai Lama or His Representatives in this section.] Second, the governments of countries that the Chinese Government accuses of accommodating pro-Tibetan independence sentiment by hosting the Dalai Lama have not challenged China's sovereignty over the Tibetan autonomous areas of China.[11] The U.S. State Department Report on Tibet Negotiations, for example, observes that U.S. policy recognizes the Tibet Autonomous Region and other Tibetan autonomous areas are part of China and that such a policy is "consistent with the view of the international community."[12]

An expert on Tibetan political history appearing before a Commission roundtable in March 2009 called attention to the apparent emergence of a more aggressive Chinese Government international policy on Tibet:

> China now seems to be willing to demand that other countries adhere to its position on Tibet at the risk of damaging their good relations with China. The financial crisis

> in the United States and other capitalist countries has also seemed to give China the impression that its own economic and political system is superior and that it can be more demanding in its international relations. The manifestation of this new attitude has been new demands that its critics cease their complaints about Tibet. Recent articles in the Chinese press have suggested that not only must other countries not criticize China about Tibet but they must revise their beliefs about the issue.[13]

[See CECC, Special Topic Paper: Tibet 2008–2009 for more information on the Chinese Government shift toward a more aggressive international policy on the Tibet issue.]

BEIJING THINK TANK FINDS CHINESE GOVERNMENT POLICY PRINCIPALLY RESPONSIBLE FOR THE "3.14 INCIDENT"

As Chinese Government officials moved more aggressively to press other governments to support the government's positions on the Tibet issue, the Beijing-based think tank, Open Constitution Initiative (OCI, Gongmeng), released a May 2009 report that rejected the government's core assertion about Tibetan protests and rioting in March 2008.[14] The "3.14 incident"[15] was not the exclusive result of external influence by the Dalai Lama and organizations that the Chinese Government associates with him (i.e., "masterminded by the Dalai Lama's clique"),[16] but the result of domestic ("internal") issues, OCI said.[17] The report applied the term "3.14 incident" in a manner consistent with Chinese Government, Communist Party, and state-run media use: a collective reference to the protests and rioting that began on March 14, 2008, in Lhasa city, Tibet Autonomous Region, and then spread to other locations.[18]

The OCI report, compiled by "a group of prominent Chinese lawyers and legal scholars,"[19] expressed its findings in a manner that shows that the authors aimed for officials to review the document,[20] and identified a number of policy-based factors: The research panel discovered that the 3.14 incident was caused by the confluence of many factors, including psychological loss created by development, discontent among economic classes, the question of migrants, influences from abroad, religious sentiment, and on-scene "mass reactions," which cannot be simply reduced to "splittist violence."[21]

The OCI report provided nine recommendations that appear to be directed to the Chinese Government. Some of the recommendations, summarized in the order that they appear, follow.[22]

- Listen to the views of ordinary Tibetans on the basis for respecting and protecting the Tibetan people's rights and interests.
- Guide economic development so that Tibetans acquire ample benefits, and to reduce the discrepancy between urban and rural income.
- Increase central government supervision over local government in order to reduce local corruption and dereliction of duty, and to speed up the process of democratizing power structures.

- Treat the education of Tibetans as the key to the long-term resolution of "the question of Tibetan areas"; improve educational opportunities available to young Tibetans, especially farmers and herders; develop appropriate content on Tibetan history and culture.
- Respect and protect Tibetan "freedom of religious belief," including recognizing the importance of religion to Tibetans; allow the resumption of "normal religious activities" such as Buddhist teaching, monastic travel to attend Buddhist teaching, and "the transmission of Tibetan Buddhism." [23]

A Tibet issue expert addressed a March 2009 Commission roundtable on the significance of what he identified as a powerful Tibetan "interest group," [24] and what the OCI report described as a "new aristocratic class." OCI's recommendation on reducing local official corruption and dereliction of duty focused principally on "the new aristocracy." [25] According to the Tibet issue expert:

> In the past 20 years in China, the people who manage Tibet . . . have really gained power. Their economic interests and everything else are built on this power. They blame everything that goes wrong in Tibet . . . on the Dalai Lama, or on Tibetans in exile. . . . [It] is really important to see just how important this group is in the role that they play. Sometimes it looks as though we are seeing only the truly top-level of China's state leadership, and we assume such high-ranking views are the only reason for what is happening. [If] you look at the details, there's a messy political process going on. In that process, there are people who have political and economic self-interests playing a role in this particular policy.[26]

Officials from the Beijing Civil Affairs Bureau shut OCI down on July 17, 2009, according to reports by international media organizations.[27] The Commission did not observe any media reports that directly attributed the shutdown of OCI to the organization's report on the "3.14 incident."

[See CECC, Special Topic Paper: Tibet 2008–2009 for more information on the OCI report on the "3.14 incident."]

Status of Negotiations Between the Chinese Government and the Dalai Lama or His Representatives

The environment for the dialogue between the Dalai Lama's representatives and Chinese Government and Communist Party officials continued to deteriorate during the Commission's 2009 reporting year. Chinese officials increased their efforts to shift the focus of the dialogue away from discussing with the Dalai Lama's envoys measures to protect and preserve the Tibetan culture, religion, and language, and instead to focus on new preconditions on the dialogue that pressure the Dalai Lama to function as an active proponent of Chinese Government and Party policies on Tibet-related issues. [See For Tibetans, Another Year of Heightened Security, Repression, Isolation in this section.]

U.S. Government policy recognizes the Tibet Autonomous Region and Tibetan autonomous prefectures and counties[28] in other provinces to be a part of China.[29] The U.S. State Department's 2009

Report on Tibet Negotiations observed, "[The Dalai Lama] represents the views of the vast majority of Tibetans and his consistent advocacy of nonviolence is an important principle for making progress toward resolution of ongoing tensions. China's engagement with the Dalai Lama or his representatives to resolve problems facing Tibetans is in the interest of both the Chinese Government and the Tibetan people." [30] The Report on Tibet Negotiations stated:

> The United States continues to believe that meaningful dialogue represents the best way to resolve tensions in Tibet. We are disappointed that, after seven years of talks, there have not been any concrete results. We are concerned that in 2008 the Chinese Government increased its negative rhetoric about the Dalai Lama, increased repression in Tibetan areas, and further restricted religious freedoms. We continue to urge both sides to engage in substantive dialogue and hope to see a ninth dialogue round in the near future that will lead to positive movement on questions related to Tibetans' lives and livelihoods.[31]

THE CHINA-DALAI LAMA DIALOGUE STALLS

The principal results of the eighth round of formal dialogue between the Dalai Lama's representatives and Communist Party officials were the Dalai Lama's envoys' handover of the "Memorandum on Genuine Autonomy for the Tibetan People" [32] (Memorandum), the Party's rejection of the Memorandum, and the Party's continued insistence that the Dalai Lama fulfill additional preconditions on dialogue. The Dalai Lama and Party officials have referred to the dialogue as having stalled.[33]

THE EIGHTH ROUND OF DIALOGUE, HANDING OVER THE MEMORANDUM

The Dalai Lama's Special Envoy Lodi Gyari and Envoy Kelsang Gyaltsen arrived in Beijing on October 30, 2008, for the eighth round of formal dialogue since such contacts resumed in 2002.[34] The envoys returned to India[35] on November 5 following official meetings in Beijing on November 4 and 5 with Du Qinglin, Head of the Communist Party United Front Work Department (UFWD) [36] and Vice Chairman of the Chinese People's Political Consultative Conference, UFWD Executive Deputy Head Zhu Weiqun, and UFWD Deputy Head Sita (Sithar).[37] Prior to the meetings, officials escorted the envoys to the Ningxia Hui Autonomous Region.[38] Academics in Beijing "briefed [the envoys] on the laws, policies and practices concerning China's regional ethnic autonomy system." [39]

The Dalai Lama's envoys handed over to UFWD officials a memorandum setting out general proposals to create "genuine autonomy for the Tibetan people." [40] The Memorandum states in its introduction that during the seventh round of dialogue in July 2008, Du Qinglin "invited suggestions from His Holiness the Dalai Lama for the stability and development of Tibet," and Zhu Weiqun "further said they would like to hear our views on the degree or form of autonomy we are seeking as well as on all aspects of regional autonomy within the scope of the Constitution of the PRC." [41] The Memorandum "puts forth our position on genuine au-

tonomy and how the specific needs of the Tibetan nationality for autonomy and self-government can be met through application of the principles on autonomy of the Constitution of the People's Republic of China, as we understand them."[42]

Party officials attack the Dalai Lama, press preconditions

The day after the Dalai Lama's envoys returned to India, UFWD Head Du Qinglin said the Dalai Lama should "fundamentally correct his political proposals."[43] Du stated that "at no time under no circumstances" would China tolerate "the slightest wavering or deviation" on what Du characterized as the issue of "safeguarding national unification and territorial integrity."[44] "Any attempt to create ethnic secession or damage ethnic unity under the banner of 'genuine ethnic autonomy' is absolutely impermissible," Du stated.[45]

Du reiterated at the eighth round of dialogue[46] a demand that the Dalai Lama personally fulfill the "four no supports,"[47] a set of preconditions on the dialogue that Du initially pressed the envoys to deliver to the Dalai Lama during the July 2008 seventh round of dialogue.[48] The new preconditions attempt to hold the Dalai Lama personally accountable for Tibetan views and activities that he does not support and that contradict his policies and guidance[49]—such as campaigning for Tibetan independence and discussing the potential use of violence in such a campaign. The "four no supports" pressure the Dalai Lama to take on the role of an active proponent of Chinese Government political objectives.[50]

UFWD Executive Deputy Head Zhu Weiqun at a November 2008 State Council Information Office (SCIO) press conference elaborated on the Chinese Government's rejection of the Memorandum.[51] He accused "the secessionist clique" of seeking to weaken central government authority, reject National People's Congress legislative authority, and revise the PRC Constitution in an attempt to "have the rights of an independent country."[52] Zhu reasserted the government's refusal to discuss "the Tibet issue," but he acknowledged government willingness to allow the Dalai Lama and "some of those by his side" to return to China if the Dalai Lama first fulfills a number of preconditions.[53]

Neither Chinese officials nor the Dalai Lama see progress

Zhu said in the November 2008 SCIO press conference that the dialogue had made no progress and blamed the unsatisfactory result on the envoys' proposal to create a unified area of Tibetan administration.[54] In a December 2008 televised interview, Zhu repeated the accusation that the Dalai Lama sought to establish "Greater Tibet," and sought to discredit the Memorandum's rationale that a unified administrative area would help to safeguard "the cultural characteristics and religious faith of the Tibetan nationality."[55] In a March 2009 interview, Zhu stated that the eighth round of dialogue was "stuck in a very difficult position" and once again faulted the Dalai Lama and his envoys.[56] Zhu emphasized what he said was their failure to "carry out their promise" to abide by the requirements of the "four no supports."[57] (The Dalai Lama's Special Envoy rejected the demands during the seventh round of dialogue when UFWD officials introduced the demands.)[58]

During the Commission's 2009 reporting year, the Dalai Lama expressed candidly his disappointment with the Chinese Government and his concern about the prospects for the Tibetan culture and heritage. "Although my faith in the Chinese leadership with regard to Tibet is becoming thinner and thinner, my faith in the Chinese people remains unshaken," he told European parliamentarians in December 2008.[59] In a May 2009 interview, the Dalai Lama likened what he described as "the Tibetan nation, an ancient nation with a unique cultural heritage," as "passing through something like a death sentence."[60]

A DETAILED TIBETAN MEMORANDUM ON "GENUINE AUTONOMY"

The "Memorandum on Genuine Autonomy for the Tibetan People"[61] (Memorandum) is unprecedented in that:

(1) it is a document (publicly available) that the Dalai Lama's envoys presented directly to Communist Party officials in an effort to advance the dialogue;

(2) it sets out on behalf of the Dalai Lama a more detailed explanation of Tibetan aspirations for "genuine autonomy" than has been available previously or is available in the Dalai Lama's Middle Way Approach (MWA);[62] and

(3) it sets out on behalf of the Dalai Lama an analysis of whether or not the PRC Constitution and Regional Ethnic Autonomy Law (REAL)[63] can accommodate Tibetan aspirations for "genuine autonomy."

The Memorandum reflects and elaborates on the principles set out in the Dalai Lama's MWA.[64] The Memorandum cites the MWA in its introductory paragraph: "The essence of the Middle Way Approach is to secure genuine autonomy for the Tibetan people within the scope of the Constitution of the PRC." The Dalai Lama's official Web site lists eight "important components" of the MWA.[65] [See CECC, Special Topic Paper: Tibet 2008–2009 for a detailed report on the Memorandum.]

Memorandum addresses, has potential to resolve, question of Tibetan Territory

With respect to the meaning of "Tibet," there have been two principal areas of disagreement between the Chinese Government and the Dalai Lama and his envoys. One issue is the territory to be recognized as "Tibet"; the other issue is whether or not all of such territory should be unified into a single administrative area.

The Memorandum's description of territory to be included in a single Tibetan administrative area appears to resolve the first of the two principal areas of divergence between the Chinese Government and the Dalai Lama. The Memorandum states explicitly that a single Tibetan administrative area should comprise "all the areas currently designated by the PRC as Tibetan autonomous areas"[66]—rather than include "the three traditional provinces of Tibet," as the Middle Way Approach states.[67] The area of the "traditional provinces of Tibet"[68] is about 100,000 square miles greater than the total area of the Tibet Autonomous Region and the Tibetan autonomous prefectures and counties located in Qinghai, Gansu, Sichuan, and Yunnan provinces.[69]

If, under the terms of the Memorandum, the Dalai Lama and his envoys seek to discuss unification only of areas the Chinese Government has already designated as Tibetan autonomous, then the remaining issue is whether or not a change of such magnitude is possible to China's administrative geography.[70] Such changes to China's map could face formidable opposition, but they are possible in principle under the PRC Constitution and Regional Ethnic Autonomy Law. The PRC Constitution authorizes establishing and changing areas of administrative geography with the approval of the National People's Congress or the State Council, or both.[71] At a March 2009 Commission roundtable, three experts on the Tibet issue responded to a question on whether or not the Memorandum's focus on areas China has already designated as Tibetan autonomous would advance the dialogue and help to reduce Chinese Government insistence that the Dalai Lama is a "splittist." None of the experts believed the change would result in a positive response from the government.[72]

Memorandum's vision of autonomy and China's hierarchy of people's congresses and governments

The Memorandum, in a section on "The Nature and Structure of the Autonomy," sets out the objective for Tibetans to exercise autonomous rights including the right to "create their own regional government and government institutions," "legislate on all matters within the competencies of the region," and to "execute and administer decisions autonomously."[73] The Memorandum acknowledges, however, that the PRC Constitution impedes the function of autonomy:

> Although the needs of the Tibetans are broadly consistent with the principles on autonomy contained in the Constitution, as we have shown, their realisation is impeded because of the existence of a number of problems, which makes the implementation of those principles today difficult or ineffective.[74]

Provisions in the PRC Constitution pose formidable obstacles to the Memorandum's vision of autonomy by creating a state hierarchy of people's congresses,[75] governments,[76] courts,[77] and procuratorates[78] in which higher level institutions supervise lower level institutions. The PRC Constitution's language establishes that autonomous regions, prefectures, and counties—irrespective of their autonomous status—are integrated into the state's hierarchy and are subordinated to tiered supervision.[79]

[See CECC, Special Topic Paper: Tibet 2008–2009 for a detailed discussion of the Memorandum's vision of autonomy and the PRC Constitution's provisions on the structure of the state.]

Religious Freedom for Tibetan Buddhists: Tightening Control Over Tibetan Buddhism, Tibetan Buddhists

Chinese Government and Communist Party interference with the norms of Tibetan Buddhism and unremitting antagonism toward the Dalai Lama, key factors underlying the March 2008 eruption of Tibetan protest, continued to deepen Tibetan resentment and fuel additional Tibetan protests during the Commission's 2009

reporting year. The government is taking measures to further increase government and Party influence over the teaching and practice of Tibetan Buddhism. The Party-led campaign to discredit the Dalai Lama as a religious leader and to prevent Tibetans from respecting him as such intensified. Statements by Chinese officials indicate that the government is ready to lead the selection of a successor to the Dalai Lama (now age 74) when he passes away, and that the government expects Tibetan Buddhists to embrace such a development.[80]

The government has in the past year used institutional, educational, legal, and propaganda channels to pressure Tibetan Buddhists to modify their religious views and aspirations. Escalating government efforts to discredit the Dalai Lama, Tibetan Buddhism's leading teacher, and to transform the religion into a doctrine that promotes government positions and policy has resulted instead in continuing Tibetan demands for freedom of religion and the Dalai Lama's return to Tibet.

STRENGTHENED EFFORTS TO SEPARATE TIBETAN BUDDHISTS FROM THE DALAI LAMA

The Chinese Government and Communist Party have increased efforts to portray the Dalai Lama's activity as an advocate on behalf of the Tibetan people and culture as a basis to deny him status as a religious figure. Seeking to end the Dalai Lama's stature among Tibetans as a paramount religious leader is central to the government campaign to promote what it refers to as "stability" and "harmony" in the Tibetan areas of China.

Government, Party, Buddhist Association leaders challenge Dalai Lama's suitability as a religious figure

Senior Chinese officials and media organizations conducted an offensive against the Dalai Lama's role as a religious leader and the right of Tibetan Buddhists to regard him as such during the period preceding a series of sensitive anniversaries and observances in February and March 2009.[81] [See For Tibetans, Another Year of Heightened Security, Repression, Isolation—Rising Tension and a Crackdown as Sensitive Dates Approached, Passed in this section.] Minister of Foreign Affairs Yang Jiechi told a press conference in March that the Dalai Lama is "by no means a religious figure but a political figure."[82] A March People's Daily editorial reasoned that expressing political views is incompatible with status as a religious figure: "'Democracy,' 'government in exile,' 'new parliament,' 'Middle Way,' 'negotiation and talks,' 'actual progress' . . . . All these expressions are baffling: how could a 'religious leader' have such explicit 'political fervor?'"[83] Jampa Phuntsog (*Xiangba Pingcuo*), Chairman of the Tibet Autonomous Region government, asserted in March that the government and Party as a matter of policy promote "religious harmony"—and accused the Dalai Lama of having "created disharmony among various religions and caused great confusion among the religious believers."[84]

The Buddhist Association of China (BAC), a "patriotic religious organization"[85] established under Chinese Government regulation[86] and charged with serving as a "bridge" linking Buddhists to the Chinese Government and the Communist Party,[87] provided an

example of the dependency of religious stature on political conformity when the BAC decided not to invite the Dalai Lama to the March 2009 "Second World Buddhist Forum."[88] The organizers chose the theme, "A Harmonious World, a Synergy of Conditions," for the forum, convened in Wuxi city, Jiangsu province.[89] BAC Vice President Ming Sheng described the Dalai Lama as a "political fugitive" and accused him of having done "lots of things to secede his motherland and go against his identity of being a Buddhist."[90] Ming reiterated government preconditions of the Dalai Lama and asserted that the Dalai Lama had yet to satisfy the demands.[91] Instead of the Dalai Lama, Gyaltsen Norbu, installed by the government as the Panchen Lama in 1995[92] after the government rejected the Dalai Lama's recognition of Gedun Choekyi Nyima as the Panchen Lama,[93] appeared at the forum.[94]

TAR Buddhist Association uses charter to isolate monks, nuns from the Dalai Lama

The "Tibet Branch" of the BAC in February 2009 amended its charter to pressure Tibetan Buddhist monks and nuns to regard the Dalai Lama as a de facto criminal[95] and a threat to Tibetan Buddhism, according to a report in China's state-controlled media.[96] The revised charter "urges" monks and nuns to "see clearly that the 14th Dalai Lama is the ringleader of the separatist political association which seeks 'Tibet independence', a loyal tool of anti-China Western forces, the very root that causes social unrest in Tibet and the biggest obstacle for Tibetan Buddhism to build up its order."[97] Language characterizing the Dalai Lama as a "separatist" incorporated into the charter of a government-designated "religious organization" increases the risk of punishment for monks and nuns who maintain religious devotion to the Dalai Lama even if they do not engage in overt political activity.[98]

Government-built Buddhist academy near Lhasa to teach politics along with religion

Officials announced in October 2008 the start of construction of the Tibet Autonomous Region's (TAR) first "comprehensive higher educational institution of Tibetan Buddhism"[99]—a facility that will have the capacity to increase government supervision and standardization of Tibetan Buddhist education. A senior TAR Party official said on the day of the groundbreaking ceremony that the government-built facility[100] "aims to train patriotic and devotional religious personnel who are widely recognized both in their religious accomplishments and moral character."[101] Instructors will also teach courses on nonreligious subjects such as "politics and sociology," the Party official said.[102] The first phase of construction on the 43-acre campus, located in Qushui (Chushur) county, adjacent to Lhasa city, will include a library and buildings to accommodate "religious activities" and is scheduled to be completed in 2010.[103]

PATRIOTIC AND LEGAL EDUCATION: SEEKING TO RESHAPE TIBETAN BUDDHISM

Chinese Government and Communist Party officials continue to respond to Tibetan criticism of government policy and implementa-

tion—including on "freedom of religious belief" [104]—with aggressive campaigns of "patriotic education" ("love the country, love religion") [105] and legal education.[106] Patriotic education sessions require monks and nuns to pass examinations on political texts, agree that Tibet is historically a part of China, accept the legitimacy of the Panchen Lama installed by the Chinese Government, and denounce the Dalai Lama.[107]

Officials justify such campaigns as legitimate and necessary state action by seeking to characterize (and conflate) a range of Tibetan objections to state policy into a purported threat to China's unity and stability. For example, officials including Tibet Autonomous Region (TAR) Party Secretary Zhang Qingli and Vice Minister of Public Security Zhang Xinfeng, speaking during a February 2009 teleconference on "the work of maintaining social stability," called for "large numbers of party, government, military, and police personnel in Tibet to immediately go into action" and "resolutely smash the savage attacks by the Dalai clique and firmly win the current people's war against separatism and for stability." [108] Principal speakers[109] at the teleconference stressed the importance of education campaigns in achieving such objectives:

> Party and government organizations at various levels, large numbers of cadres, and the broad masses of people in Tibet received profound education in patriotism and warning education in separatism in the blood-and-fire struggle against separatism, maintaining social stability and safeguarding the sanctity of the socialist legal system with their actual deeds.[110]

The Party and government do not limit the application of ideological education campaigns that allegedly protect China's unity and stability to religious institutions. For example, a Party-run Web site reported in June 2009 that students at four TAR "institutes of higher education" [111] would receive increased "ideological and political education." [112] Among the campaign goals were the creation of "a defensive 'Great Wall of Steel,'" "increasing anti-separatist, political, and ideological resources available on the school Web sites, and 'cleaning up' and monitoring information on the internet." [113] The campaign would "aim to strengthen the opposition to the Dalai Clique's separatist activities and create a solid educational foundation." [114] Each of the tertiary education institutions would conduct a speech contest with the theme, "Gratitude for progress, determination for success, give back to the community." [115]

Intensive period of patriotic, legal education aims for "new order" in Tibetan Buddhism

The government and Party increased the use of intensive campaigns to "educate" monks and nuns after protests spread through the ethnic Tibetan areas of China in March to April 2008[116] and maintained such campaigns during the Commission's 2009 reporting year. A TAR Party official said on March 9, 2009, the day prior to a sensitive March 10th anniversary,[117] that in the period since March 14, 2008, more than 2,300 officials had been dispatched to 505 TAR monasteries and nunneries[118] to "promote the legal awareness of monks and nuns and dissuade them from being duped

by separatist forces and ensure the normal practice of Buddhism." [119]

Following the issuance of regulations on Tibetan Buddhism in 2006[120] and 2007,[121] Party and government officials have increased the emphasis on the use of legal measures and "legal education" to pressure Tibetan Buddhists into compliance with a state-defined "new order" for the religion. Lobsang Gyaltsen (*Luosang Jianzan*), a senior TAR Party and Chinese People's Political Consultative Conference (CPPCC) official, said in a February 2009 address, "Large numbers of patriotic monks and nuns should assist the government in strengthening the management of monasteries and religious affairs and improving monastic rules and religious discipline and contribute to building a new order in monasteries and religious activities." [122] Another senior TAR CPPCC official, Vice Chairman Pasang Dondrub (*Basang Dunzhu*), called on the government in March 2009 to further strengthen policies and legal measures that would bring the Tibetan Buddhist institution more firmly under state control and "shape behaviors of monks and nuns." [123]

Officials intend to conduct patriotic and legal education lectures at an unknown number of monastic institutions during the period surrounding October 1, 2009, the 60th anniversary of the Party's establishment of the People's Republic of China, according to a TAR official's May 2009 remarks to Drepung Monastery monks.[124] The official, Lobsang Dondrub (*Luosang Dunzhu*), Vice Chairman of the Standing Committee of the TAR People's Congress and vice director of a "monastery work group," [125] reportedly told the monks to adhere to "Four Standards" set out by TAR Party Secretary Zhang Qingli.[126]

Authorities eject 1,200 monks from Drepung, Sera; detention, education, abuse follows

Tibet Autonomous Region (TAR) implementing measures issued in 2006[127] for the Regulation on Religious Affairs[128] may have played a role in authorities' efforts to curtail and reverse the interprovincial movement of monks seeking to study at other monasteries, especially at premier Tibetan Buddhist institutions, in the post-March 2008 period. Public security officials and monastic authorities in Drepung Monastery and Sera Monastery, both located in Lhasa city, sent back to their home provinces (mostly Qinghai, Gansu, and Sichuan) a total of at least 1,200 monks, according to an official March 2009 Chinese media report.[129] Seven hundred of the monks were visiting Drepung, and 500 were visiting Sera.[130] The head of Drepung's Democratic Management Committee said that monks from elsewhere in the TAR and from other provinces "often spent years at the monastery," and for the previous three years Drepung officials had not known the exact number of monks living at the monastery.[131]

Authorities transferred 675 of the monks from Lhasa to Qinghai in late April 2008[132] and held the monks in a "military detention center" [133] guarded by People's Armed Police[134] near Golmud (Ge'ermu, Kermo) city in Haixi (Tsonub) Mongol and Tibetan Autonomous Prefecture, Qinghai province, where authorities forced the monks to participate in "rule of law education" classes.[135] Another report described the classes as "patriotic education." [136] Au-

thorities began returning the monks with Qinghai residency to their hometowns after three months of "education," [137] but it was late August 2008 before officials began to release monks with Sichuan province residency into the custody of government, Party, and public security officials from the monks' home areas.[138] In Golmud, authorities allegedly subjected the monks to "beatings and psychological torture," according to a media organization report, and "many" monks suffered illness as a result.[139] Few details are available about the current status or well-being of the 1,200 monks. [See CECC, Special Topic Paper: Tibet 2008–2009 for more information on the expulsion of 1,200 monks from Drepung and Sera Monasteries.]

Official "Warns" Dalai Lama That Chinese Government Must Approve Next Dalai Lama

Chinese officials during the Commission's 2009 reporting year adopted a more assertive tone in expressing determination to select the next Dalai Lama, and to pressure Tibetans living in China to accept only a Dalai Lama approved by the Chinese Government. Remarks in March 2009 by Tibet Autonomous Region (TAR) officials emphasized the government position that Tibetans will be permitted to regard as legitimate only a Dalai Lama approved by the government—as currently is the case for the Panchen Lama.[140]

Jampa Phuntsog (*Xiangba Pingcuo*), Chairman of the TAR government, expressed confidence that Tibetan Buddhists living in China would not accept a (subsequent) Dalai Lama unless the Chinese Government approves that Dalai Lama. "If the Dalai Lama does not follow the convention for political or other purposes," he said, "I believe his reincarnation would not be acknowledged by religious people in Tibet, and the central government will never approve it." [141] The assertion that the government "will never approve" a Dalai Lama unless the government supervises the Dalai Lama's selection would ensure that, under China's current policy and law, a Tibetan Buddhist (in China) who regards an "unapproved" Dalai Lama as legitimate would be violating Chinese law—just as it currently is illegal for a Tibetan Buddhist (in China) to regard as legitimate Gedun Choekyi Nyima,[142] the Panchen Lama whom the Dalai Lama recognized in 1995.[143] Chinese security officials and courts have treated expressions of devotion toward Gedun Choekyi Nyima as "splittism" (a crime under Article 103 of the PRC Criminal Law).[144]

The government took no publicly reported steps during the Commission's 2009 reporting year to allow international observers to visit Gedun Choekyi Nyima,[145] who turned 20 years of age in April 2009.[146] Chinese officials have held Gedun Choekyi Nyima and his parents in incommunicado custody at unknown locations since May 1995.[147]

Tibetan Development Initiatives Reinforce Government Priorities: Focus on 2020

The Chinese Government pressed forward during the Commission's 2009 reporting year with a Communist Party-led development policy[148] that prioritizes infrastructure construction and casts

Tibetan support for the Dalai Lama as the chief obstacle to Tibetan development. The government, to a large extent, bases its positive representation of conditions in Tibetan areas on economic growth data,[149] and on selective comparisons between pre-1949 Tibet[150] and post-1978 reform-era China.[151] The government announced a major new infrastructure program—the "redesign" of Lhasa—that is scheduled for completion in 2020, the same year that the government plans to have ready for operation several new railways traversing sections of the Tibetan plateau. Tibet Autonomous Region (TAR) Communist Party Secretary Zhang Qingli and Minister of Railways Liu Zhijun discussed in May 2009 accelerating the construction of railways that will access the TAR.[152]

PARTY LABELS DALAI LAMA, "DALAI CLIQUE" AS PRINCIPAL OBSTRUCTIONS TO DEVELOPMENT

The Chinese Government and Communist Party conducted the anti-Dalai Lama campaign within the sphere of economic development, portraying in March 2009 the Dalai Lama and organizations that the government associates with the Dalai Lama as the chief obstruction to Tibetan development.[153] Lhasa mayor Dorje Tsedrub (*Duojie Cezhu*) stated that "sabotage from the Dalai Lama group remains the biggest obstacle in the way of Tibet's development," and that "the violent riots on March 14 last year denied the autonomous region a good chance of development."[154]

Legchog (*Lieque*), Chairman of the Standing Committee of the TAR People's Congress, asserted in March 2009, "We can't engage in construction amid an earthquake and pursue development in time of turmoil."[155] He blamed "the Dalai Clique" for "incessant sabotage," and stated that "stability is the prerequisite for Tibet's development."[156] The TAR People's Congress would "strengthen legislation and law enforcement to fight separatism and ensure national security and regional stability," he said.[157] The Party-run Tibet Daily asserted in October 2008 that the TAR is unique in China because of "an extremely heavy task of promoting its economic and social development" as "the Dalai clique is trying its utmost to make disturbances and sabotages on the other."[158] By characterizing the Dalai Lama as hostile to Tibetan development (as well as to national unity and stability, as explained above), the Party seeks to characterize the Dalai Lama as the principal threat to all three of the Party's principal policy objectives in the Tibetan autonomous areas of China: unity, stability, and development. [See Commission Annual Reports in 2004,[159] 2005,[160] 2006,[161] 2007,[162] and 2008[163] for more information on Chinese Government development policy in the Tibetan autonomous areas of China.]

MAINTAINING THE PRIORITY OF INFRASTRUCTURE CONSTRUCTION

The Communist Party and Chinese Government continue to prioritize development policies that Tibetans resent and that many Tibetans (including the Dalai Lama) believe threaten the Tibetan culture and environment. The Dalai Lama said in his March 10, 2009, address to Tibetans,[164] "Many infrastructural developments such as roads, airports, railways, and so forth, which seem to have brought progress to Tibetan areas, were really done with the political objective of sinicising Tibet at the huge cost of devastating the

Tibetan environment and way of life."[165] The result, the Dalai Lama said, is that, "Today, the religion, culture, language and identity, which successive generations of Tibetans have considered more precious than their lives, are nearing extinction . . ."[166]

Lhasa redesign to feature "old" and "new" downtowns by 2020

Officials announced additional infrastructure projects in 2009 that will have a transformative effect on some Tibetan areas, such as Lhasa, which the government aims to "redesign" by 2020,[167] and Rikaze (Shigatse), the TAR's second largest city, scheduled to have railway service in 2010[168] and an airport in 2011.[169] Prioritizing infrastructure construction[170] accords with the Great Western Development campaign that the State Council launched in 2000.[171] Vague language in a March 2009 official media report on the State Council-approved plan to redesign Lhasa suggests that authorities aim to create a city with multiple centers that would include Lhasa's long-established Tibetan community (an "old" downtown) and one or more forthcoming urban centers ("new" downtowns). "(Authorities) ought to coordinate the relations between the ancient and modern civilizations, between the old and new downtowns, and between natural and humanistic resources," the State Council reportedly said in its approval of the plan.[172] The result should be "a coordinated and distinctive modern metropolis."[173]

Population in the redesigned Lhasa may soar, depending on the meaning of the plan's reported recommendation to cap Lhasa's "downtown population" at "less than 450,000 persons."[174] Such an urban population figure would be approximately 2.5 times greater than the current population of Lhasa city, and nearly equal to the total population of Lhasa municipality—a prefectural-level area that includes Lhasa city as well as seven counties.[175] According to data on the 2007 Lhasa municipality population available in the 2008 Tibet Statistical Yearbook, the total population of Lhasa municipality was approximately 465,000 persons,[176] and the population of Lhasa city itself was approximately 182,000 persons.[177]

Officials acknowledge Tibetan resentment against the "floating population," but call for more, better migrant services

The announcement of Lhasa's redesign is concurrent with official acknowledgment that Tibetan resentment against increasing numbers of non-Tibetan workers and traders[178] traveling into the Tibet Autonomous Region (TAR) was a factor in the March 14, 2008, Lhasa riots (the "3.14 incident").[179] The government acknowledged the role of the Qinghai-Tibet railway in facilitating such an increase.[180] Official TAR population statistics, however, show little increase in the number of non-Tibetans in the TAR following the start of railway operation. Most reports in China's state-controlled media blamed rioting on "the Dalai Clique." Jampa Phuntsog (Xiangba Pingcuo), Chairman of the TAR government, speaking at a March 2009 press conference, said Tibetans killed 18 persons, injured nearly 400 persons, and damaged or destroyed more than 1,000 businesses, shops, and residences during the Lhasa rioting.[181] He expressed sympathy for the victims, whom he linked to the Qinghai-Tibet railroad and the issue of the "floating population."[182]

Zhang Yijiong, Vice Chairman of the TAR government, in September 2008 addressed the first meeting of the "Working Group for Service and Supervision of Floating Population in the TAR" and described the floating population as "a major force behind constructing a prosperous, peaceful, and harmonious Tibet."[183] Zhang told the working group that "the work of service and supervision of Tibet's floating population has encountered many new situations" in recent years following the "increasing strength of reform and opening up," and "especially" following the opening of the Qinghai-Tibet railway. He advised the working group that "serving and supervising the floating population" should be a high priority, and called on all levels of the government and Party to "help them resolve practical hardships and problems" and to "provide them with more and better basic public services."[184] Members of the floating population who travel to the TAR should "equally enjoy the achievements of economic and social development, and realistically feel the warmth of the Party and government," Zhang said.[185]

The Communist Party-published Lhasa Evening News (LEN) provided in February 2009 a rare fragment of information about the size of Lhasa city's floating population.[186] The fragment lacks context and is difficult to interpret, yet it suggests that the size of the city's population of itinerant workers is substantial and (at times) could be similar to the size of the city's "official" population. Party officials[187] registered a total of 183,926 persons as "temporary residents" in Lhasa municipality's urban area (the Chengguan district) during a period that began in June 2008,[188] LEN said. For the purpose of comparison, the figure of 183,926 "temporary residents" registered in Chengguan district during a period of several months beginning in June 2008 is similar to the entire 2007 Chengguan population recorded in the 2008 Tibet Statistical Yearbook: 181,191.[189]

[See CECC, Special Topic Paper: Tibet 2008–2009 for a discussion of TAR population statistics that show little increase in non-Tibetan population after the start up of the Qinghai-Tibet railway.]

Railway logistics center opens, will support by 2020 TAR rail links with surrounding provinces

Officials announced in April 2009 that construction of the TAR's largest rail traffic logistics center, located near the capital of Naqu (Nagchu) prefecture, would be complete in June 2009.[190] An April 20 official Chinese media report said that the center would be complete in June 2009,[191] but the facility began operation on August 17, according to a subsequent report.[192] The 1,317-acre[193] Naqu Logistics Center, seven kilometers long and one and one-half kilometers wide,[194] is intended to support TAR rail links with Qinghai, Sichuan, Gansu, Shaanxi, and Yunnan provinces, and possibly to the Xinjiang Uyghur Autonomous Region.[195] A November 2008 official media report reflected the government's ambition for the reach of the logistics center by referring to it as "the bridge tower for landway of south Asia."[196] Railways entering the eastern TAR from Chengdu city in Sichuan province and Kunming city in Yunnan province will pass through Naqu before arriving in Lhasa.[197]

The Commission reported in its 2008 Annual Report that a Ministry of Railways official announced in August 2008 that the government expects to complete construction of six new rail lines feeding into the Qinghai-Tibet railway by 2020,[198] the same year that Lhasa's "redesign" is scheduled to be complete. [See Lhasa Redesign To Feature "Old" and "New" Downtowns by 2020 in this section.] Authorities had announced two of the six rail lines (Lhasa-Rikaze, and Lhasa-Linzhi) prior to 2008.[199] In May 2009, TAR Party Secretary Zhang Qingli and Minister of Railways Liu Zhijun held a forum on accelerating the construction of railways that will access the TAR.[200] In August 2009, China's state-run media announced that work on the Sichuan-Tibet railway would begin in September.[201] Passengers departing from Chengdu, the capital of Sichuan province, will complete the 1,629-kilometer journey to Lhasa in only eight hours on an electric railway capable of operating at speeds above 200 kilometers per hour.[202] The 254 kilometer westward extension of the Qinghai-Tibet railway from Lhasa to Rikaze (Shigatse) is scheduled for completion in 2010, according to an April 2009 official media report.[203] [See CECC, Special Topic Paper: Tibet 2008–2009 for information on government plans to construct additional railways traversing Tibetan autonomous areas of China, and continuing official warnings that global warming could threaten the Qinghai-Tibet railway.]

Hu Jintao calls for more "socialist new villages"

On March 9, 2009, President Hu Jintao urged Tibet Autonomous Region (TAR) deputies to the National People's Congress (NPC) to "vigorously advance" the program of constructing "socialist new villages" [204]—an initiative that establishes greater control over the Tibetan rural population by implementing programs that will bring to an end the traditional lifestyle of Tibetan nomadic herders by settling them in fixed communities, and reconstructing or relocating farm villages.[205] The program to construct "socialist new villages" is part of the Great Western Development campaign,[206] which the State Council implemented in 2000.[207] The Commission's 2008 Annual Report noted that the program is nearing completion throughout Tibetan areas, disrupting an important sector of the Tibetan culture and economy.[208] Tibetan nomads participated in the wave of protests following March 10, 2008, in substantial numbers, including in counties where no Tibetan political protests had been recorded since the current period of Tibetan political activism began in 1987.[209]

China's state-run media reported in August 2009 that a program to settle 55,700 nomadic herders living in the Sanjiangyuan National Nature Reserve (SNNR) in Qinghai province would be complete in 2010.[210] In the past four years nearly 50,000 herders from almost 10,600 families "have bidden farewell to nomadic life and settled down in brick houses" in 86 newly constructed "immigrant communities," an official said.[211] Nearly all of the settled nomads are likely to be Tibetans, based on official Chinese census data for the counties within the SNNR.[212]

President Hu called for more "socialist new villages" as part of the drive to promote development and stability as a means to "reinforce the solid Great Wall for combating separatism and safe-

guarding national unity."[213] The call for "a Great Wall of stability" preceded "several sensitive dates in Tibet."[214] Hu told the NPC deputies that the TAR "must stick to the development road with Chinese characteristics and Tibetan features."[215] Hu's description of the government's approach to Tibetan development, identifying the main components ("characteristics") of the developmental model as Chinese, and the superficial aspects ("features") as Tibetan, is consistent with the government's implementation of the Regional Ethnic Autonomy Law. [See Status of Negotiations Between the Chinese Government and the Dalai Lama or His Representatives—A Detailed Tibetan Memorandum on "Genuine Autonomy"—Memorandum's Vision of Autonomy and China's Hierarchy of People's Congresses and Governments in this section.]

Confrontation over mining, hydroelectric projects; one possible successful resolution

Confrontations between Tibetans and Chinese Government and security officials resulted in 2009 when Tibetans protested against natural resource development projects.[216] One incident appears to provide an unusual example of local Tibetan stakeholders' objecting to a development project and reaching a satisfactory negotiated agreement with government officials. The other incident involves Tibetans protesting against upcoming forced relocation to accommodate the construction of a hydroelectric project.

In the first incident, Tibetans objected to the planned start of a gold mining operation on a mountain Tibetan Buddhists regard to be a sacred site in Mangkang (Markham) prefecture, Tibet Autonomous Region, and began to protest against the project months before the issue came to a head in May.[217] By mid-May, as many as 500 local Tibetans entered into a standoff with Chinese Government and security officials as the Tibetans sought to block a bridge that provided access to the mining site.[218] On June 8, Tibetans agreed to an arrangement that would cancel the planned mining operation and provide environmental cleanup and testing of existing mining waste that Tibetans said is "poisonous."[219] A source told Radio Free Asia that "all the points of the agreement were set down in writing" in the presence of government officials.[220] No information is available on whether or not government and mining company officials signed the agreement, or if the agreement is legally binding. Nonetheless, the government decision to engage local Tibetans to resolve a disagreement on an economic development issue represents a positive development.

In the second incident, an India-based Tibetan non-governmental organization (NGO) reported that on May 24, officials told Tibetans in Yajiang (Nyagchukha) and Daofu (Tawu) counties, Ganzi (Kardze) Tibetan Autonomous Prefecture, Sichuan province, that construction would begin on a large hydroelectric dam, displacing a large number of Tibetans from their village homes.[221] When Tibetans began to protest and shout their refusal to give up their "ancestral dwelling place," public security officials and People's Armed Police allegedly used tear gas and gunfire to disperse the Tibetans, reportedly wounding six Tibetan women.[222] The NGO report provided no details about the dam, and Commission staff had seen no confirmation of the alleged shooting as of June 2009. Com-

mission staff analysis suggests that the dam may be the Lianghekou Hydroelectric Project, currently in a preparatory stage of construction in Yajiang county, south of Daofu, at the confluence of the Yalong and Xianshui rivers.[223]

For Tibetans, Another Year of Heightened Security, Repression, Isolation

The Chinese Government and Communist Party crackdown on Tibetan communities, monasteries, nunneries, schools, and workplaces following the wave of Tibetan protests that began on March 10, 2008, continued during the Commission's 2009 reporting year.[224] As of September 2009, the Commission had not seen public reports suggesting that Chinese authorities had lessened repressive security measures in Tibetan communities.

Chinese authorities continued to attempt to prevent information from leaving ethnic Tibetan areas on the abuse, detention, and punishment of peaceful Tibetan protesters; the political detention of Tibetans for non-protest activity; patriotic and legal education campaigns; other measures to enforce what the government and Party describe as "stability"; and measures by officials to restrict or prevent the flow of information about conditions in Tibetan areas of China.[225] During the Commission's 2009 reporting year, Chinese judicial officials have sentenced to lengthy terms of imprisonment Tibetans who shared information about Tibetan protests with individuals or groups outside of China.[226] Authorities also took measures in various locations to prevent Tibetans from receiving information originating outside of China via the Internet.[227] According to a June 2009 Radio Free Asia (RFA) report, government staff in Gannan (Kanlho) Tibetan Autonomous Prefecture (TAP) resorted to destroying satellite dishes that enabled Tibetans to receive Tibetan-language RFA and Voice of America television broadcasts.[228]

International media organizations reported that Chinese authorities took measures to close Tibetan areas to foreign travelers (including international journalists) in advance of sensitive dates in 2009.[229] [See Rising Tension and a Crackdown as Sensitive Dates Approached, Passed in this section.] Several foreign journalists reported being expelled from unspecified Tibetan-populated areas of China during the first week of February, according to an international media organization report that did not name the journalists.[230] In early March, People's Armed Police detained a New York Times reporter at a checkpoint in Gannan TAP.[231] Public security officials "interrogated" him and put him on a plane to Beijing.[232] [See Section II—Freedom of Expression, for more information on international journalists' access to Tibetan areas.]

RISING TENSION AND A CRACKDOWN AS SENSITIVE DATES APPROACHED, PASSED

Security measures intensified in some Tibetan areas during a months-long period that bracketed a series of three sensitive anniversaries and observances in February and March 2009.[233] In each case, Chinese Government and security officials sought either to pressure Tibetans to participate in a publicly visible event when

Tibetans preferred not to do so, or to prevent Tibetans from participating in a publicly visible event (a political protest) when some Tibetans may have wished to do so. The first date, February 25, was an instance when some Tibetans chose to "boycott" (i.e., not to celebrate) Tibetan New Year (Losar),[234] but Chinese officials pressed Tibetans to celebrate in the customary fashion.[235] The second date, March 10, was the anniversary of a key event in modern Tibetan political history (the 1959 "Tibetan People's Uprising" in Lhasa),[236] and marked the potential for renewed Tibetan protest—a possibility that Chinese security officials were determined to prevent.[237] March 10 was also the first anniversary of the start of Tibetan protests in 2008. The third date, March 28, was an instance when Tibetans sought to avoid participating in an official holiday ("Serfs Emancipation Day") that celebrated the 1959 dissolution of the former Tibetan government in Lhasa,[238] but Chinese officials staged closely managed ceremonies anyway.

In a March 13, 2009, Commission roundtable, a U.S. expert on Tibet linked the creation of "Serfs Emancipation Day" to government attempts to counter expressions of Tibetan nationalism on March 10, and to the collapse of the China-Dalai Lama dialogue. [See Status of Negotiations Between the Chinese Government and the Dalai Lama or His Representatives in this section.]

> Now March is with us, and the struggle is between the Tibetan adherence to marking March 10 as a national day . . . and China's determination to purge the month of any such significance by instituting instead a new holiday: March 28, Serfs Emancipation Day. . . . The creation of this new holiday is relevant to our understanding of the collapse of talks between the Dalai Lama's representatives and the Chinese Government in November. . . . [The Chinese Government] rejected any compromise with the Dalai Lama on any of his proposals about the nature of autonomy within Tibet and stated that, while the door was open for him to return, he would have to recognize the errors of his ways. . . . China's decision to recognize and commemorate March 28, 1959 as Serfs Emancipation Day put 1959 back on the table and signaled that the talks really are at a dead-end. But that was already clear.[239]

Officials in Lhasa implemented a "strike hard" anticrime campaign from mid-January until late March 2009—a period of time that bracketed all three sensitive dates—according to a series of reports in the Communist Party-run Lhasa Evening News (LEN).[240] The campaign's stated aim, LEN reported, was to "strike hard according to law against all kinds of illegal criminal activity and to vigorously uphold the city's social order and stability."[241] Public security officials conducted checks of residences, hotels, guest houses, bars, and Internet cafes to confirm whether or not the persons they encountered had a residence permit for Lhasa.[242] During the campaign's first week, police checked 8,424 persons and found only 148 (1.8 percent) who did not have an appropriate permit. Public security officials detained a total of 51 of the 8,424 persons (0.6 percent) on suspicion of criminal activity, including 30 on suspicion of theft, burglary, and prostitution. Two of the detainees had "reactionary

discussion" and "reactionary songs" on their cell phones, LEN reported.[243]

A "FARMING BOYCOTT MOVEMENT" RESULTS IN THREATS, DETENTION, BEATINGS, SHOOTING

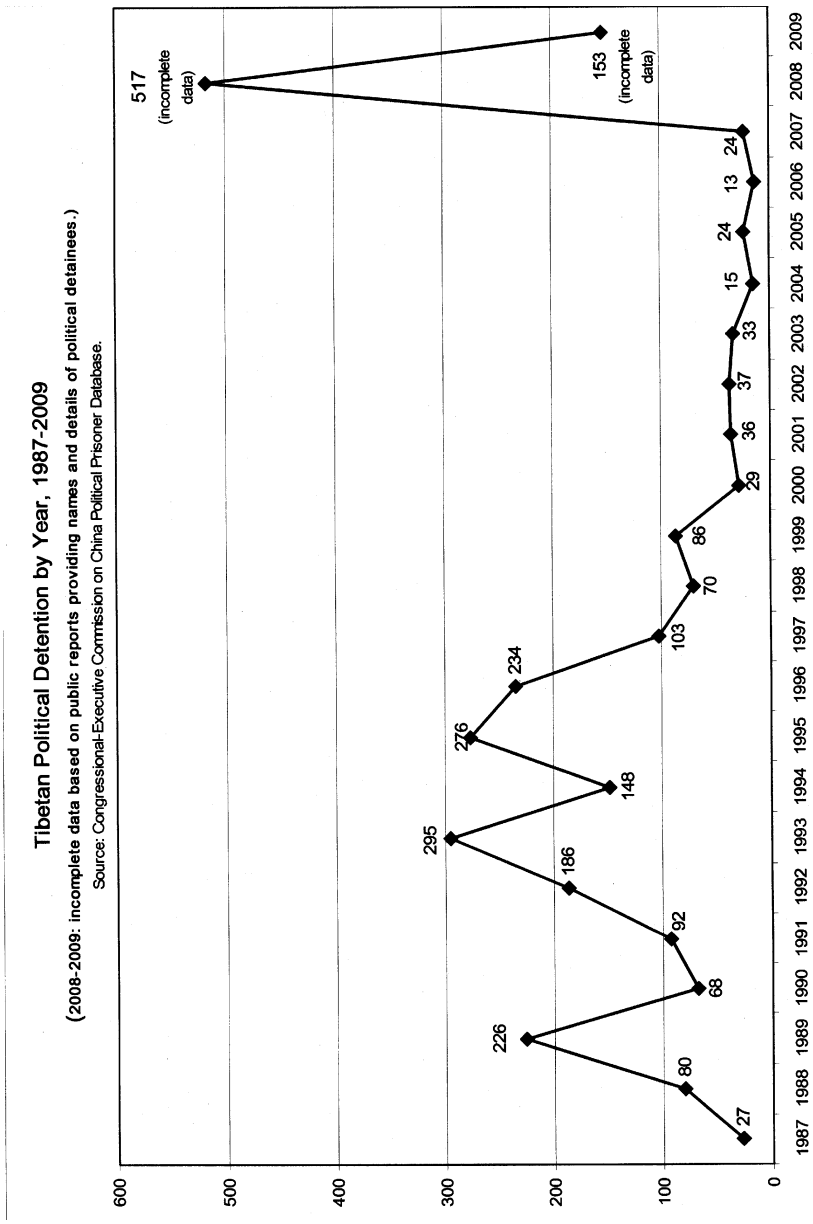
Tibetan agricultural communities in some areas of Ganzi Tibetan Autonomous Prefecture (TAP) undertook a "farming boycott movement" beginning in March 2009, based on reports published in March and April.[244] The protests were based on a "civil disobedience" [245] model and entailed Tibetan farmers' refraining from tilling their land and planting crops at the usual time.[246] The farming boycott was a Tibetan attempt to address the same grievances that the Losar boycott did: the death and imprisonment of Tibetan protesters in 2008, and the ongoing crackdown since the protests.[247] Tibetans adopted the same passive strategy for the farming boycott that they did for Losar—avoiding direct protest activity, and instead refraining from carrying out normal activity.

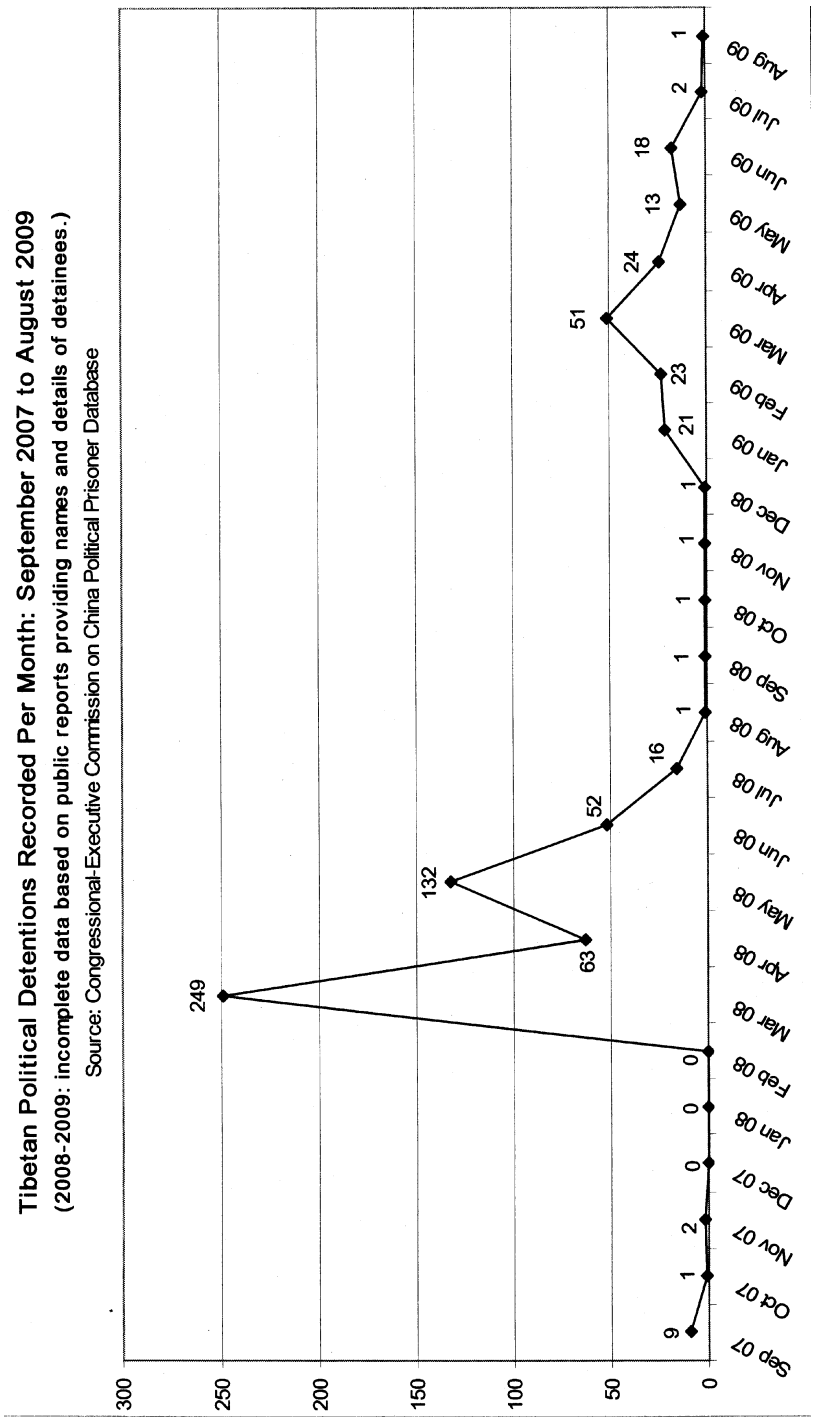
Officials in Ganzi (Kardze), Luhuo (Draggo), and Xinlong (Nyagrong) counties in Ganzi TAP sought to force farmers to resume normal farming activity,[248] and threatened farmers with confiscation of their land if they did not comply.[249] Public security officials detained Tibetans in connection with the boycott in each of the counties.[250] After reports in July of May detentions linked to the boycott in Jiangda (Jomda) county,[251] Changdu (Chamdo) prefecture, TAR, the Commission's Political Prisoner Database contained 31 records of detention linked to the farming boycott—a figure certain to be incomplete because some reports did not name all of the detainees, and it is unlikely that reports on every instance of detention have reached the international community. Security officials reportedly beat Tibetans upon detention, in some cases so severely that authorities reportedly hospitalized the detainees for treatment of their injuries.[252] A Tibetan monk, Phuntsog Rabten, died from a beating on March 25 after officials caught him putting up posters urging Tibetans to support the farming boycott, according to reports.[253] On April 15, armed security forces in Xinlong county reportedly opened fire on Tibetans protesting peacefully against a court verdict, and against the crackdown that followed the farming boycott.[254] The report stated that the shooting resulted in "injuries," but provided no details.[255]

Political Detention and Imprisonment of Tibetans

The series of Tibetan political protests that began in Lhasa on March 10, 2008,[256] and the resulting Chinese Government and Communist Party crackdown on Tibetan communities, continued during the Commission's 2009 reporting year. The surge in the number of Tibetan political detainees and prisoners beginning in March 2008 appears to be the largest since the current period of Tibetan political activism began in 1987.[257] As of September 2009, the Commission's Political Prisoner Database (PPD) recorded the detention or imprisonment of 517 Tibetans in 2008 and an additional 153 Tibetans in 2009 for engaging in activity such as staging peaceful political protests. These figures are certain to be incomplete. [See chart titled Tibetan Political Detention by Year, 1987–

2009 below.] Based on PPD information, the number of news media and non-governmental organization reports of Tibetan political protests that contained detailed information about the political detention[258] of Tibetans declined steeply from May to August 2008,[259] the period preceding and during the 2008 Beijing Summer Olympic Games.[260] The number of reports of Tibetan political detention remained at a very low level until December 2008,[261] and then climbed during January to April 2009. [See chart titled Tibetan Political Detentions Recorded Per Month: September 2007 to August 2009 below.]


Tibetan Political Detention by Year, 1987-2009
(2008-2009: incomplete data based on public reports providing names and details of political detainees.)
Source: Congressional-Executive Commission on China Political Prisoner Database.
600
500
400
300
200
100
0
1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009
27
80
226
68
92
186
295
148
276
234
103
70
86
29
36
37
33
15
24
13
24
517
(incomplete data)
153
(incomplete data)


Tibetan Political Detentions Recorded Per Month: September 2007 to August 2009
(2008-2009: incomplete data based on public reports providing names and details of detainees.)
Source: Congressional-Executive Commission on China Political Prisoner Database
300
250
200
150
100
50
0
Sep 07
Oct 07
Nov 07
Dec 07
Jan 08
Feb 08
Mar 08
Apr 08
May 08
Jun 08
Jul 08
Aug 08
Sep 08
Oct 08
Nov 08
Dec 08
Jan 09
Feb 09
Mar 09
Apr 09
May 09
Jun 09
Jul 09
Aug 09
9
1
2
0
0
0
249
63
132
52
16
1
1
1
1
1
1
51
24
13
18
2
1

PROTESTERS PERSIST, ADAPT

Tibetan protesters resumed in January 2009 their calls for Tibetan independence (or Tibetan "freedom"),[262] the Dalai Lama's return to Tibet, and freedom of religion, as a series of sensitive observances and anniversaries in February and March 2009 approached and passed. For the period January to April 2009 (the period bracketing the sensitive dates in February and March), the PPD records 119 political detentions of Tibetans, a figure certain to be incomplete. [See chart titled Tibetan Political Detentions Recorded Per Month: September 2007 to August 2009 above.] As a result of increased government security measures and harsh action against protesters, Tibetan political protests in 2009 were smaller and of briefer duration than the protests of March and April 2008. Tibetan protesters faced the presence of well-entrenched security forces tasked with ensuring "social stability."[263] Security officials allegedly sometimes used excessive force such as beating protesters with batons, metal rods, or rifle butts.[264]

Tibetans staging political protests during the Commission's 2009 reporting year remained peaceful with two alleged exceptions, based on Commission staff monitoring.[265] One incident, in March 2009 in Qinghai province, followed the apparent suicide of a Ragya Monastery monk immediately after he escaped police custody.[266] Angry monks and other Tibetans "attacked" a township police station when they learned of the death and allegedly caused "minor injuries" to government workers, according to an official Chinese media report.[267] The report provided no details about the government victims or their alleged injuries. In another incident, a public security official alleged in June 2009 that Tibetan protesters in an eastern Tibetan Autonomous Region (TAR) county had beat a village head, but provided no details about the alleged incident.[268] Tibetans have set off small explosions in a few instances that caused limited property damage but no casualties, according to reports by China's official media and international media reports.[269]

Deaths of peaceful Tibetan protesters while in police custody, including a death that resulted from an alleged lethal beating, occurred during this reporting year. Three reported cases were of deaths within a relatively short period of detention or attempted detention: Pema Tsepag,[270] monk Tashi Zangpo,[271] and monk Phuntsog Rabten.[272] In each case, the victim's friends, family members, or associates were nearby, learned of the death, and were able to convey information about the death to destinations outside of China.

[See CECC, Special Topic Paper: Tibet 2008–2009 for information on Chinese authorities' targeting and detaining Tibetan writers and publishers.]

WHERE ARE THE TIBETAN POLITICAL PROTESTERS? DETAINED, IMPRISONED, OR RELEASED?

The scale of the wave of Tibetan protests that began on March 10, 2008, and of the surge in political detention of Tibetans, far surpasses the amount of information available about the detainees.[273] The Chinese Government has provided almost no information about Tibetans whom security officials detained for peacefully

protesting, or for peacefully expressing their views through means other than staging a political protest. As a result, non-governmental organizations and issue experts face (at present) insurmountable obstacles in creating an accurate account of the number of Tibetan political detainees and their status under China's legal system (e.g., detained, released, imprisoned, or serving reeducation through labor).

The Commission's Political Prisoner Database (PPD), for example, contained as of September 2009 a total of 670 records of Tibetans detained on or after March 10, 2008, for exercising rights such as the freedoms of speech, religion, assembly, and association. Of those 670 records—a number certain to be far short of the true number of political detentions during the period—the PPD listed 643 Tibetans as currently known or believed to be detained or imprisoned. The other 27 persons are recorded as released or deceased. Of the 643 records that indicate current detention or imprisonment, the PPD provided a sentence length for only 105 records—a figure certain to be incomplete. A total of 538 of the 643 records of current detention contain no information about charges or sentencing. It is likely that Chinese authorities have sentenced some of those 538 Tibetans and released many of the others.

The Chinese Government's failure to provide adequate information about the detention, prosecution, and release of Tibetans detained since March 10, 2008, makes it impossible for the Commission to determine which existing PPD records should reflect current detention or imprisonment, and which records should reflect release. In addition, missing and incomplete information prevents the Commission from creating additional records of Tibetan political detention to represent Tibetan political detainees and prisoners not yet recorded in the PPD. As a result, the PPD cannot accurately reflect the current status of an unusually large number of Tibetan political detainees and prisoners.

Summary information: Tibetan political detention and imprisonment

As of September 2009, the Commission's Political Prisoner Database (PPD) contained records of 715 Tibetan political prisoners believed to be currently detained or imprisoned. Of those 715 records of current Tibetan political imprisonment, 643 are records of Tibetans detained on or after March 10, 2008, and 72 are records of Tibetans detained prior to March 10, 2008. It is certain that PPD information is far from complete for the period after March 10, 2008. [See Where Are the Tibetan Political Protesters? Detained, Imprisoned, or Released? in this section.]

More than half (342) of the 643 Tibetan political prisoners believed to be currently detained or imprisoned and who were detained on or after March 10, 2008, are detained or imprisoned in Sichuan province, according to PPD data. The rest of the Tibetan political prisoners believed to be currently detained or imprisoned and who were detained on or after March 10, 2008, are detained or imprisoned in the Tibet Autonomous Region (TAR) (129), Gansu province (92), Qinghai province (79), and Yunnan province (1) according to PPD information. The 72 Tibetans currently detained or imprisoned and who were detained prior to March 10, 2008, are de-

tained or imprisoned in the TAR (35), Sichuan (30), Qinghai (4), or in an unknown location (3), according to PPD data.

Tibetan Buddhist monks and nuns make up 445 (62 percent) of the 715 cases of current Tibetan political detention and imprisonment, according to information available in the PPD. Of those 445 persons, 107 are nuns, 332 are monks, and the gender of 6 persons is unknown. Of the 107 nuns, 103 were detained on or after March 10, 2008; of the 332 monks, 292 were detained on or after March 10, 2008.

Sentencing information is available for only 146 of the 715 Tibetans the PPD records as believed to be currently imprisoned or detained, according to PPD data as of September 2009. Of the 146 Tibetan political prisoners for whom sentencing information is available, 104 were detained on or after March 10, 2008. The 104 sentences range in length from six months to life imprisonment.[274] The average length of the 104 sentences imposed on Tibetan political prisoners detained on or after March 10, 2008, is approximately four years and eight months.[275] Of the 146 Tibetan political prisoners for whom sentencing information is available, 42 were detained prior to March 10, 2008. The 42 sentences range in length from three years to life imprisonment. The average length of the 42 sentences currently being served by Tibetan political prisoners detained prior to March 10, 2008, is approximately 12 years and 8 months.

A Tibetan non-governmental organization based in India reported in April 2009 that former Tibetan monk Jigme Gyatso[276] (detained in 1996 and serving an extended 18-year sentence for printing leaflets, distributing posters, and later shouting pro-Dalai Lama slogans in prison) is "seriously ill following years of torture and ill-treatment." [277] The report provided no details on the illness. Jigme Gyatso is due for release in March 2014.[278] The Commission is not aware of new developments in the cases of monk Choeying Khedrub[279] (sentenced in 2000 to life imprisonment for printing leaflets); reincarnated lama Bangri Chogtrul[280] (detained in 1999 and serving a sentence of 18 years commuted from life imprisonment for "inciting splittism"); or nomad Ronggyal Adrag (sentenced in November 2007 to 8 years' imprisonment for shouting political slogans at a public festival).[281]

TIBETANS IN GANZI TAP DOMINATE REPORTS OF PEACEFUL PROTEST ACTIVITY

Ganzi (Kardze) Tibetan Autonomous Prefecture (TAP), Sichuan province, continues to be the area where Tibetans are most active in political protest against Chinese policies and implementation,[282] based on information available in the Commission's Political Prisoner Database (PPD). Political detention of Tibetans in Ganzi accounted for 284 of the 670 political detentions of Tibetans (42 percent) in the period beginning March 10, 2008, based on information available in the PPD as of September 2009. It is certain that PPD documentation of Tibetan political detention since March 10, 2008, is incomplete. Political detention in Ganzi TAP accounted for 67 of the 119 Tibetans (56 percent) detained during the January to April 2009 period bracketing sensitive anniversaries and observances, according to PPD data as of September 2009.

Buddhist monks and nuns make up a significant proportion of PPD records of Tibetans detained in Ganzi TAP for political activity since March 10, 2008: 180 of the 284 PPD records (63 percent) of such political detentions are of Tibetan Buddhist monks and nuns,[283] based on PPD data as of September 2009. Unusually, the number of Tibetan Buddhist nuns detained in the period beginning on March 10, 2008, surpasses the number of monks: 104 nuns and 76 monks. The high proportion of nuns is due to a large number of Pangri Nunnery nuns detained during a May 14, 2008, protest march.[284]

Tibetan political protests in Ganzi TAP during the Commission's 2009 reporting year generally have been small[285]—about half were carried out by a single person based on information available in the PPD—but the protests have been relatively numerous. For example, at least 19 of the 30 protests in the January to March period that resulted in a PPD detention record took place in Ganzi TAP, based on PPD data as of May 2009.[286] At least 9 of those 19 Ganzi TAP protests were carried out by a single Tibetan.[287] Although such protests are small, they reflect an individual's decision to undertake risk in order to make a public statement.

[See CECC, Special Topic Paper: Tibet 2008–2009 for information on the political detention, criminal prosecution, and legal defense of Phurbu Tsering, a Tibetan Buddhist teacher in Ganzi TAP.]

LHASA COURT HANDS DOWN LONG SENTENCES FOR SHARING INFORMATION

The Communist Party-run Lhasa Evening News (LEN) provided in November 2008 the first (and, so far, only)[288] detailed official information about Tibetans convicted and sentenced to terms of imprisonment for nonviolent activity that authorities seek to link to rioting on March 14, 2008, in and near Lhasa.[289] The LEN report asserted that a total of seven Tibetans prosecuted in four different cases had "endangered state security."[290] All of the cases involved providing information ("intelligence") to Tibetan organizations based in India that are part of what the Chinese Government and Communist Party refer to collectively as "the Dalai Clique."[291] The Lhasa Intermediate People's Court sentenced one Tibetan to life imprisonment and six Tibetans to fixed terms of imprisonment ranging from 8 to 15 years on charges of "espionage" (PRC Criminal Law, Article 110) or "illegally sending intelligence abroad" (PRC Criminal Law, Article 111).[292] The charges and sentences show how China's law enforcement and judicial officials are able to exercise broad discretion in identifying and punishing behavior that they deem to "concern" or "harm" China's security, honor, and interests. The PRC Constitution (Article 54) states that Chinese citizens "must not commit acts detrimental to the security, honor, and interests of the motherland."[293] The Criminal Law chapter on "Crimes of Endangering National Security" (Articles 102 to 113), however, mentions the "security" of the state only once (in Article 102) and only with respect to colluding with a "foreign State"[294]—a description that is not applicable to what the Chinese Government refers to as "the Dalai Clique."

LHASA INTERMEDIATE PEOPLE'S COURT: PUNISHING TIBETANS FOR SHARING INFORMATION WITH "THE DALAI CLIQUE" [295]

Pinyin Name Tibetan Name	Alleged Activity	Criminal Charge	Criminal Law	Sentence Date	Sentence Length
Wangdui Wangdu	Copied "splittist" CD–ROMs and leaflets; sent "intelligence" to "the Dalai Clique"	"Espionage"	Art. 110	October 27, 2008	Life imprisonment
Mima Dunzhu Migmar Dondrub	Distributed "splittist" CD–ROMs and leaflets; sent "intelligence" to "the Dalai Clique"	"Espionage"	Art. 110	October 27, 2008	14 years
Pingcuo Duojie Phuntsog Dorje	"Collected intelligence"; "illegally sent intelligence abroad [to "the Dalai Clique"] via Wangdu"	Unlawfully provided "intelligence" to an organization or individual outside of China	Art. 111	October 27, 2008	9 years
Ciwang Duojie Tsewang Dorje	"Collected intelligence"; "illegally sent intelligence abroad [to "the Dalai Clique"] via Wangdu"	Unlawfully provided "intelligence" to an organization or individual outside of China	Art. 111	October 27, 2008	8 years
Suolang Zhaba Sonam Dragpa	Joined "the Dalai Clique's 'Tibetan Youth Congress'"; collected and sent "intelligence" to the TYC	Unlawfully provided "intelligence" to an organization or individual outside of China	Art. 111	October 27, 2008	10 years
Yixi Quzhen Yeshe Choedron	Received "financial aid" from "the Dalai Clique's 'Security Department'" for providing "intelligence and information"	"Espionage"	Art. 110	November 7, 2008	15 years

LHASA INTERMEDIATE PEOPLE'S COURT: PUNISHING TIBETANS FOR SHARING INFORMATION WITH "THE DALAI CLIQUE"[295]—CONTINUED

Pinyin Name Tibetan Name	Alleged Activity	Criminal Charge	Criminal Law	Sentence Date	Sentence Length
Suolang Cidian Sonam Tseten	Collected and provided "intelligence" to "the Dalai Clique's '9, 10, 3' [Gu-Chu-Sum] splittist organization"	Unlawfully provided "intelligence" to an organization or individual outside of China	Art. 111	November 7, 2008	10 years

[See CECC, Special Topic Paper: Tibet 2008–2009 for information on (1) sentences for Lhasa "rioters," including death, death with a two-year reprieve,[296] and life imprisonment; and (2) exceptions to peaceful protests in which Tibetans allegedly carried out bombings.]

VI. Developments in Hong Kong and Macau

Introduction

The United States supports a stable, autonomous Hong Kong under the "one country, two systems" formula articulated in the Sino-U.K. Joint Declaration and the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.[1] The United States also supports the high degree of autonomy of Macau as set forth in the Sino-Portuguese Joint Declaration on the Question of Macau and the Basic Law of the Macao Special Administrative Region of the People's Republic of China.[2] The people of Hong Kong and Macau enjoy the benefits of an independent judiciary[3] and an open society in which the freedoms of speech, movement, and assembly are largely respected.[4] The Commission notes, however, that full democracy in Hong Kong has been further delayed this reporting year, and recent developments have led to restrictions on the freedoms that Hong Kong and Macau citizens have been afforded in the regions' basic laws.[5]

As the Commission reported in 2008, the National People's Congress Standing Committee issued a decision in December 2007 prohibiting the people of Hong Kong from directly electing both the chief executive and the entire Legislative Council in 2012.[6] The plan for how to achieve the prospect of full democracy by 2017 was set to be unveiled in 2009, but in January of 2009, Chief Executive Donald Tsang announced that public consultation on this issue would be delayed until the fourth quarter as the government focuses on dealing with the global economic downturn.[7] The Commission strongly supports the provisions of the Basic Law that provide for the election of the chief executive and the entire Legislative Council through universal suffrage, and highlights the importance of the central government's obligation to give Hong Kong the "high degree of autonomy" promised in the Basic Law.

Hong Kong Chief Justice Andrew Li Kwok-nang announced on September 2, 2009, that he would retire three years early in 2010.[8] Well known for his work in upholding the rule of law and defending Hong Kong's judicial independence, Li "ruled out speculation that he had been under political pressure to step down," according to an Agence France-Presse report.[9]

The Macau Special Administrative Region (SAR) government introduced national security legislation in October 2008 which criminalizes, as well as stipulates prison terms for, treason, secession, subversion, sedition, theft of state secrets, and association with foreign political organizations that harm state security.[10] The extent to which Macau develops its own standards or adopts PRC standards for what constitutes these crimes is unclear. After a brief public consultation period, the legislation was passed on February 25, 2009, and went into effect on March 3.[11]

Universal Suffrage Further Delayed in Hong Kong

Although the Basic Law describes universal suffrage as the "ultimate aim" for Hong Kong,[12] the central government in Beijing continued to obstruct progress toward the fulfillment of that goal by refusing to allow constitutional and electoral reforms to proceed in

the near term. In December 2007, the National People's Congress Standing Committee (NPCSC) ruled in favor of delaying universal suffrage for the election of the chief executive until 2017 and for the legislature until 2020 at the earliest.[13] This decision marked the second time in less than four years that the NPCSC has issued a formal ruling to delay the commencement of universal suffrage in Hong Kong.[14]

The chief executive of the Hong Kong Special Administrative Region (HKSAR) is currently selected by an 800-member election committee that includes representatives from Hong Kong's functional constituencies, ex officio members (members of the Legislative Council, Hong Kong deputies to the National People's Congress, and Hong Kong representatives to the Chinese People's Political Consultative Conference), and religious representatives. Only half of the Legislative Council's 60 seats currently are filled by direct elections. The remaining seats are chosen by functional constituency voters, many of which are representatives of business interests that are pro-status quo and unwilling to challenge the central government.[15]

Following the NPCSC's December 2007 decision to delay universal suffrage,[16] HKSAR Chief Executive Donald Tsang announced in his October 2008 policy address that, "[t]o lay a solid foundation for universal suffrage," the government would prioritize determining electoral arrangements for 2012, "with a view to further democratizing the election systems." He then pledged to set up a public consultation in the first half of 2009 regarding these arrangements.[17] However, in January 2009, Chief Executive Donald Tsang announced his decision to defer the public consultation until the fourth quarter of 2009, citing the preeminence of "tackling economic and livelihood concerns."[18] Tsang's decision appears to echo Beijing's focus on economic matters over political reform this year. Several pro-democracy legislators protested against Tsang's decision, accusing him of using the economic downturn as an excuse to delay universal suffrage.[19]

A high bar imposed by the central government for passing universal suffrage legislation and differing conceptions about what constitutes universal suffrage serve as additional obstacles. The NPCSC's December 2007 decision to further postpone electoral reforms included a stipulation that any proposal to change the current selection methods to direct election by universal suffrage must originate from the HKSAR government, be approved by a two-thirds majority of the Legislative Council, and be subjected to final approval by the NPCSC.[20] Proponents of democracy in Hong Kong remain concerned that the ultimate proposal introduced by the government could fall short of genuine democracy, and if citizens do not accept that proposal, Beijing may move back the entire timeline. Some lawmakers have expressed concerns that qualification requirements might be imposed to screen out or otherwise exclude certain figures from consideration in the nomination process for the chief executive.[21] The NPCSC's decision insisted that candidates for chief executive shall continue to be nominated by an election committee after universal suffrage is implemented.[22]

Hong Kong Chief Justice Set To Retire Early

On September 2, 2009, Hong Kong Special Administrative Region (HKSAR) Chief Justice Andrew Li Kwok-nang announced his decision to retire three years ahead of schedule on August 31, 2010.[23] As the leader of the judiciary since 1997, Li has played a vital role in upholding the rule of law and defending Hong Kong's judicial independence under Chinese rule. Li said that his decision to retire early "is in the best interests of the judiciary. It will be conducive to an orderly succession planning."[24] The Commission will continue to monitor developments as the HKSAR government begins the process of selecting Chief Justice Li's successor.[25]

Controversial National Security Bill Passed in Macau

On October 22, 2008, the Macau Special Administrative Region (SAR) government released draft national security legislation, which was provided for by Chapter II, Article 23, of Macau SAR's Basic Law.[26] The legislation criminalizes, as well as stipulates prison terms for, treason, secession, subversion, sedition, theft of state secrets, and association with foreign political organizations that harm state security.[27] The extent to which Macau develops its own standards or adopts PRC standards for what constitutes these crimes is unclear. According to a July 2003 New York Times article, the proposal of a similar bill in Hong Kong led to demonstrations by approximately 500,000 people on July 1, 2003.[28] Then Chief Executive Tung Chee-hwa announced the withdrawal of the bill two months later, stating that he felt Hong Kong needed to focus primarily on economic concerns.[29] The bill has not been reintroduced in Hong Kong.

The Macau SAR government opened the draft legislation for public consultation for 40 days,[30] and during this time collected 784 comments and suggestions which the government made available along with the Final Consultation Report on its Web site.[31] While recognizing the need for national security legislation, citizens expressed concern that the law's unclear definitions, and its stiff punishments, could impinge upon the freedoms of association and expression in Macau. Many such concerns appeared in the summary of suggestions and comments in the Consultation Report of the National Security Law [draft] compiled by the Macau SAR government.[32]

Concerns Regarding Specific Provisions in the National Security Law
• Articles 2 and 3 include the terms "other serious unlawful means," "harm the security of transportation and communications," and "hinder central government officials from carrying out their duties," but do not clearly define these terms.[33] The International Trade Union Confederation argued that this ambiguity would allow officials to charge citizens with subversion or sedition, as they do in China, when citizens engage in peaceful, mass demonstrations that temporarily disrupt traffic flow and/or the work duties of officials.[34]

Concerns Regarding Specific Provisions in the National Security Law—Continued

• Article 5 of the law criminalizes the act of "breaching, stealing, selling, or 'procuring or prying into' (*citan*) state secrets, which harms the national security, independence, unity, or integrity of the state or its internal or external security." It defines "state secrets" as "documents, information, or objects" that have "already been confirmed as a state secret" and must "involve national security, external relations, or other related matters having to do with the relationship between central authorities and the Macau SAR as set forth in the Macau SAR Basic Law." Article 5 does not, however, specify what matters would be considered "related" to national security or external relations. Nor does it define the terms in the phrase "harms the national security, independence, unity, or integrity of the state." Officials could interpret "related" and other terms broadly to restrict the public's access to information regarding relations between Macau and the central government. The article may thus have implications for the transparency with which the "one country, two systems" relationship will be managed.[35]
• Articles 7 and 8 criminalize the behavior of "foreign and domestic Macau political organizations or groups" if that behavior endangers state security. They also criminalize the establishment of links by Macau political organizations and groups with foreign political organizations and groups for the purpose of conducting acts found to endanger state security. "Links" in these provisions include, among other things, "the receipt of instructions, orders, money, or valuables from foreign organizations or their agents," and "the collection, preparation or public dissemination of false or clearly distorted news." Terms in the provisions including "endangering state security," "political organizations," and "distributing false or clearly distorted information" remain undefined.[36] In addition, the provisions allow for fines to be levied against sentenced organizations, which could have the effect of bankrupting civic groups. The fines are assessed on a daily basis, i.e., Macau patacas $100 (US$12) to $20,000 (US$2,550) a day for a minimum of 100 days and a maximum of 1,000 days.[37]

Some citizens expressed concern regarding the brevity and inclusiveness of the public consultation period. The International Trade Union Confederation (ITUC), in its submission to the Macau SAR government, noted that the consultation period was "not adequate to allow for the fullest possible public discussion."[38] The group cited a survey of 1,000 Macau residents which found that over 60 percent of residents lacked a clear understanding of the draft bill, even though the majority apparently agreed with its passage.[39] The ITUC cited a separate survey which found that 85 percent of the respondents had little or no knowledge of the bill.[40] These surveys suggest additional time was warranted for citizens to make themselves aware of the bill and its repercussions. The ITUC also reported concern about the selective nature of government-organized "public" forums to discuss the bill.[41] While the central government-appointed chief executive organized six discussion sessions in late October and early November 2008, at least four of these meetings were "closed-door" and reserved for designated communities and associations. In addition, the ITUC reported that a student forum

scheduled for November 20, 2008, was canceled after officials from the University of Macau pressured the organizing students.[42]

During and after the public comment period on the national security bill, there were a handful of protests against the bill. On November 23, 2008, about 80 protesters, including a few pro-democracy activists from Hong Kong and Macau civil servants, workers, and students, marched to the Macau SAR government headquarters to protest against the bill.[43] On December 20, several hundred people marched to express their concerns about the bill, as well as to protest local corruption and economic worries.[44] In December, Macau SAR officials prevented over 20 Hong Kong pro-democracy activists and lawmakers who had planned to take part in a public forum and the December 20 demonstration from entering Macau. The officials cited internal security laws for barring the activists and lawmakers without providing details.[45]

The Macau SAR government passed a revised version of the legislation on February 25, 2009, after the public consultation period and a review in the Macau SAR Legislative Assembly.[46] The revised version clarified that state secrets need to be declared as secret in advance, disallowing post hoc classification.[47] It also removed a separate provision criminalizing "preparatory acts"—a term undefined in this legislation but used in the existing Macao Penal Code to refer to premeditated actions which jeopardize safety in the SAR—but retained provisions related to preparatory acts in the articles about treason, secession, and subversion.[48] In addition, a new article appears in the revised version which states that legal proceedings involving all matters, except those involving charges of stealing state secrets, would be open to the public.[49] During the nine sessions of clause-by-clause discussion at the committee level in January and February 2009,[50] minimum prison terms for the crimes of treason, secession, and subversion were reduced from 15 to 10 years and the effective date of the new law was pushed forward.[51] Macau SAR authorities addressed some, but not all, citizen concerns in the revised draft bill and left some important terms undefined, including the definitions of "preparatory acts," [52] "foreign political organizations or groups," [53] and "inciting" sedition.[54]

Macau SAR Chief Executive Edmund Ho publicly stated that the National Security Law would not be used to limit peaceful expressions of dissent such as "chanting a few slogans" or "writing a few articles criticizing the central government or the Macau government." [55] However, some groups and individuals maintain concern that citizens in Macau may be vulnerable to punishment for expressing views critical of officials or the government.[56] Concern remains regarding the impact of ill-defined terms in the law on the freedoms protected by law in Macau, especially the freedoms of speech and association. As the Hong Kong Journalists Association reported in a July 2009 article, "The law contains offences which in some cases are extremely broad. If they were adopted in a Hong Kong national security law, they would pose a very serious threat to freedom of expression, including press freedom." [57] Just weeks after the passage of the bill, Hong Kong pro-democracy lawmakers, academics, and activists were denied entry into Macau.[58] Several barred individuals reported that Macau immigration officers cited the National Security Law when turning them away.[59]

CHINA'S INTERNATIONAL HUMAN RIGHTS COMMITMENTS

The Universal Declaration of Human Rights enshrines a core set of rights and freedoms that individuals everywhere enjoy. China voted to adopt the Universal Declaration in 1948, and the current Chinese government has continued to commit itself to upholding human rights through international agreements and its own domestic law. In the past year, the Chinese government reiterated this commitment. According to the Chinese government's 2009–2010 National Human Rights Action Plan (HRAP), issued in April 2009, "China will continue to fulfill its obligations to the international human rights conventions to which it has acceded, and initiate and actively participate in exchanges and cooperation in the field of international human rights." [1]

This past year, the Chinese government also reiterated its stated commitment to ratify the International Covenant on Civil and Political Rights (ICCPR), which China signed in 1998. During the Universal Periodic Review of China's human rights record before the UN Human Rights Council in February 2009, the Chinese government supported recommendations that it ratify the ICCPR and said it was in the process of amending domestic laws, including the criminal procedure law and laws relating to reeducation through labor, to make them compatible with the ICCPR.[2] According to the HRAP, the Chinese government "will continue legislative, judicial and administrative reforms to make domestic laws better linked with this Covenant, and prepare the ground for approval of the ICCPR." [3]

The chart below lists what action China has taken on major human rights treaties and protocols to the treaties.[4]

Convention or Protocol	Ratification Status	Declarations and Reservations (excerpts)
International Covenant on Economic, Social and Cultural Rights	Ratified March 27, 2001.	The application of article 8.1(a) of the Covenant to the People's Republic of China shall be consistent with the relevant provisions of the Constitution of the People's Republic of China, Trade Union Law of the People's Republic of China and Labor Law of the People's Republic of China.
International Covenant on Civil and Political Rights	Signed October 5, 1998; not yet ratified.	

Convention or Protocol	Ratification Status	Declarations and Reservations (excerpts)
Optional Protocol to the International Covenant on Civil and Political Rights	Neither signed nor ratified.	
Second Optional Protocol to the International Covenant on Civil and Political Rights	Neither signed nor ratified.	
International Convention on the Elimination of All Forms of Racial Discrimination	Acceded to December 29, 1981.	The People's Republic of China has reservations on the provisions of article 22 of the Convention and will not be bound by it.
Convention on the Elimination of All Forms of Discrimination against Women	Ratified November 4, 1980.	The People's Republic of China does not consider itself bound by paragraph 1 of article 29 of the Convention.
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	Neither signed nor ratified.	
Convention on the Rights of the Child	Ratified March 2, 1992.	The People's Republic of China shall fulfill its obligations provided by article 6 of the Convention under the prerequisite that the Convention accords with the provisions of article 25 concerning family planning of the Constitution of the People's Republic of China and in conformity with the provisions of article 2 of the Law of Minor Children of the People's Republic of China.

Convention or Protocol	Ratification Status	Declarations and Reservations (excerpts)
Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict	Ratified February 20, 2008.	1. The minimum age for citizens voluntarily entering the Armed Forces of the People's Republic of China is 17 years of age. 2. The Government of the People's Republic of China is applying [safeguard measures] in implementing the foregoingprovision.
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	Ratified December 3, 2002.	
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Ratified October 4, 1988.	1. The Chinese Government does not recognize the competence of the Committee against Torture as provided for in article 20 of the Convention. 2. The Chinese Government does not consider itself bound by paragraph 1 of article 30 of the Convention.
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Neither signed nor ratified.	

Convention or Protocol	Ratification Status	Declarations and Reservations (excerpts)
Convention relating to the Status of Refugees	Acceded to September 24, 1982.	[Subject to] reservations on the following articles: 1. The latter half of article 14,which reads "In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence." 2. Article 16 (3).
Protocol relating to the Status of Refugees	Acceded to September 24, 1982.	With a reservation in respect of article 4.
Convention on the Prevention and Punishment of the Crime of Genocide	Ratified April 18, 1983.	The People's Republic of China does not consider itself bound by article IX of the said Convention.
Convention against Transnational Organized Crime	Ratified September 23, 2003.	The People's Republic of China makes a reservation with regard to Article 35, paragraph 2 of the Convention and is not bound by the provisions of Article 35, paragraph 2.
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime.	Neither signed nor ratified.	

Convention or Protocol	Ratification Status	Declarations and Reservations (excerpts)
Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UN Convention against Transnational Organized Crime	Neither signed nor ratified.	
Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	Neither signed nor ratified.	
Convention on the Rights of Persons With Disabilities	Ratified August 1, 2008.	
Optional Protocol to the Convention on the Rights of Persons With Disabilities	Neither signed nor ratified.	

RATIFICATION OF THE INTERNATIONAL LABOR ORGANIZATION FUNDAMENTAL CONVENTIONS

Forced Labor		Freedom of Association		Discrimination		Child Labor	
C. 29	C. 105	C. 87	C. 98	C. 100	C. 111	C. 138	C. 182
Not ratified	Not ratified.	Not ratified.	Not ratified.	Ratified November 2, 1990.	Ratified January 12, 2006.	Ratified April 28, 1999.	Ratified August 8, 2002

VII. Endnotes

†Voted to adopt: Senators Dorgan, Baucus, Levin, Feinstein, Brown, Corker, and Barrasso; and Representatives Levin, Kaptur, Honda, Walz, Wu, Smith, Manzullo, Royce, and Pitts.
Voted not to adopt: Senator Brownback.

Notes to Section I—Political Prisoner Database

[1] The Commission treats as a political prisoner an individual detained or imprisoned for exercising his or her human rights under international law, such as peaceful assembly, freedom of religion, freedom of association, free expression, including the freedom to advocate peaceful social or political change, and to criticize government policy or government officials. (This list is illustrative, not exhaustive.) In most cases, prisoners in the Political Prisoner Database were detained or imprisoned for attempting to exercise rights protected by the PRC Constitution and law, or by international human rights conventions, or both.

Notes to Section II—Freedom of Expression

[1] PRC Constitution, arts. 35 (freedom of speech) and 41 (right to criticize state organ or functionary).

[2] UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, para. 71.

[3] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 105. In the case of subversion, sentences are generally no more than 10 years, but may be life imprisonment for "ringleaders" or someone who commits a "major crime." For inciting subversion, sentences are generally no more than five years, unless the defendant is a "ringleader" or someone who commits a "major crime," in which case they shall be sentenced to no less than five years. Article 45 caps fixed-term imprisonment to no more than 15 years. PRC Criminal Law, art. 45.

[4] International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 19 [hereinafter ICCPR]. China has signed, but has not yet ratified, the ICCPR. As in previous years, the Chinese Government this reporting year continued to reiterate its commitment to ratifying the ICCPR, which China signed in 1998. In February 2009, during the UN Human Rights Council's Universal Periodic Review of the Chinese Government's human rights record, the Chinese Government supported recommendations made by Member States that China ratify the ICCPR. At the time, Chinese officials also said China was in the process of amending domestic laws, including the criminal procedure law and laws relating to reeducation through labor, to make them compatible with the ICCPR. UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, paras. 63, 114(1). Moreover, in the 2009–2010 National Human Rights Action Plan (HRAP) issued by the Chinese Government in April 2009, officials stated that the ICCPR was one of the "fundamental principles" on which the plan was framed, and that the government "will continue legislative, judicial and administrative reforms to make domestic laws better linked with this Covenant, and prepare the ground for approval of the ICCPR." State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, introduction, sec. V(1).

[5] International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 19; Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, art. 29.

[6] See previous analysis of a typical case in CECC, 2006 Annual Report, 20 September 06, 32.

[7] Manfred Nowak, Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Mission to China, 10 March 06, paras. 34, 82(s). Nowak, in the report, also recommended that political crimes "that leave large discretion to law enforcement and prosecution authorities such as 'endangering national security,' 'subverting State power,' 'undermining the unity of the country,' 'supplying of State secrets to individuals abroad,' etc. should be abolished."

[8] Chinese Human Rights Defenders (Online), "Inciting Subversion of State Power: A Legal Tool for Prosecuting Free Speech in China," 8 January 08.

[9] "Land Rights Activist Yang Chunlin Sentenced to Five Years," CECC China Human Rights and Rule of Law Update, March/April 2008, 1. See also Chinese Human Rights Defenders (Online), "Defense Pleading in First Trial Case of Tan Zuoren On Suspicion of Inciting Subversion of State Power" [Tan zuoren shexian shandong dianfu guojia zhengquan an yishen bianhu ci], 12 August 09, in which defense lawyer Pu Zhiqiang notes that China's legal system has no legislative or judicial interpretation of the crime of inciting subversion of state power, and therefore could consider international guidelines such as the Johannesburg Principles on National Security, Freedom of Expression and Access to Information as a source of guidance.

[10] Chinese Human Rights Defenders (Online), "Criminal Judgment of Zhang Qi, Union of Chinese Nationalists Member Who Was Imprisoned for Speech" [Yinyan huozui de fanlan lianmeng chengyuan zhang qi de xingshi panjueshu], 11 July 09.

[11] Ibid.

[12] Ibid.

[13] Chinese Human Rights Defenders (Online), "Chen Daojun Sentenced to 3 Years for 'Inciting Subversion of State Power,' Deprived of Political Rights for 3 Years" [Chen daojun beiyi 'shandong dianfu guojia zhengquan zui' panxing sannian, boduo zhengzhi quanli sannian], 20 November 08.

[14] Ibid.; Chinese Human Rights Defenders (Online), "Chen Daojun Gives Up Appeal on the Basis of No Hope in China's Current Legal System" [Chen daojun jiyu dui zhongguo xianxing

sifa de juewang er fangqi shangsu], 25 November 08. Chen's lawyer said that in the essays Chen "was only criticizing the party, and never said he would subvert it." Henry Sanderson, "Chinese Journalist Sentenced to 3 Years," Associated Press (Online), 21 November 08.

[15] Chinese Human Rights Defenders (Online), "Democracy Activist Sentenced to Six Years for 'Subversion of State Power,'" 7 January 09; "Wang Rongqing's Complete Sentencing Document Revealed" [Wang rongqing de panjueshu quanwen puguang], Boxun (Online), 12 January 09; Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09. Wang joins Zhang Jianhong, Yan Zhengxue, Chen Shuqing, Chi Jianwai, and Lu Gengsong as CDP members sentenced to prison in recent years for their writings and political activities. CECC, 2007 Annual Report, 10 October 07, 84.

[16] China Human Rights Lawyers Concern Group (Online), "Criminal Judgment of Heilongjiang Province Jixi City Intermediate People's Court's Sentencing of Barefoot Lawyer Yuan Xianchen" [Heilongjiang sheng jixi shi zhongji renmin fayuan panchu chijiao lushi yuan xianchen de xingshi panjueshu], 4 March 09.

[17] Ibid. The court notes that in an "illegal" interview Yuan gave to the Epoch Times in 2007, he "called on China's vast military to wake up, and dismiss the Communist Party." Much of the interview is also spent criticizing the Communist Party and calling for democracy. The court also says that Yuan distributed 20 to 30 copies of his anti-Party writings to petitioners in Beijing. The court merely cited the existence of this passage and the existence of a large number of writings over the Internet to conclude that Yuan had incited subversion and the overthrow of the socialist system, without determining whether Yuan's writings posed any actual threat to national security. For the actual interview, see "Special Interview With Yuan Xianchen: Willing To Become the Second Yang Chunlin Promoting Chinese Democracy" [Zhuanfang yuan xianchen: yuan chengwei yang chunlin di er tuidong zhongguo minzhu], Epoch Times (Online), 13 August 07.

[18] Chinese Human Rights Defenders (Online), "Guo Quan Suspicion of 'Subversion of State Power' Case Goes to Trial in Suqian," 7 August 09. See also "Chinese Democracy Advocate Stands Trial Over Subversion Charges," Kyodo, reprinted in Breitbart (Online), 7 August 09.

[19] Chinese Human Rights Defenders (Online), "Guo Quan Met With Lawyer; Case Returned to the Public Security Bureau for Supplemental Materials" [Guo quan zhongde lushi huijian, anjuan yijing tuihui gongan buchong cailiao], 21 April 09.

[20] Human Rights Watch (Online), "China: End Quake Zone Abuses," 6 May 09. The government did not release a figure for the number of students killed in the earthquake until May 7, 2009. Andrew Jacobs and Edward Wong, "China Reports Student Toll for Quake," New York Times (Online), 7 May 09.

[21] Edward Wong, "China Admits Building Flaws in Quake," New York Times (Online), 4 September 08; "Sichuan Quake Complaints Squashed," Radio Free Asia (Online), 3 October 08; Gillian Wong, "Chinese Court Rejects Parents' Earthquake Lawsuit," Associated Press (Online), 23 December 08; Edward Wong, "China Blocks Travel for Parents Planning Protest," New York Times (Online), 9 January 09.

[22] Andrew Jacobs, "In Year After Quake, China Sealed an Opened Door," New York Times (Online), 12 May 09.

[23] Andrew Jacobs and Edward Wong, "China Reports Student Toll for Quake," New York Times (Online), 7 May 09.

[24] Ibid.

[25] Ibid.

[26] "Chengdu Courts Hold Trials of Earthquake Activists," Congressional-Executive Commission on China (Online), 21 August 09, citing Bao Daozu, "Activist on Trial for Subversion," China Daily (Online), 13 August 09, and Chinese Human Rights Defenders (Online), "Police Bar Public From Attending Trial of Earthquake Investigator Tan Zuoren," 13 August 09.

[27] "Indictment Against Activist Tan Zuoren," China Digital Times (Online), 4 August 09.

[28] "Chengdu Courts Hold Trials of Earthquake Activists," Congressional-Executive Commission on China (Online), 21 August 09, citing Human Rights in China (Online), "Authorities Kidnapped and Prevented Court Appearance by Witness for Huang Qi's Case," 5 August 09.

[29] "Chengdu Court Postpones Trial of Activist Huang Qi," CECC China Human Rights and Rule of Law Update, No. 2, 2009, 3.

[30] "Chengdu Courts Hold Trials of Earthquake Activists," Congressional-Executive Commission on China (Online), 21 August 09.

[31] In September 2008, officials in Guanghan, Sichuan, released Liu Shaokun, a middle school teacher who posted photos of collapsed schools online and criticized their construction in a media interview, to serve out the remainder of his one year of reeducation through labor. "Sichuan Teacher Previously Sentenced to Reeducation Through Labor, Liu Shaokun, Obtains 'Serve Sentence Outside Place of Custody' and Is Set Free" [Bei pan laojiao de Sichuan jiaoshi liu shaokun huo suo wai zhixing huo shi], Radio Free Asia (Online), 3 October 08. In March 2009, a human rights NGO reported that officials released retired professor Zeng Hongling, who was detained by Mianyang officials in Sichuan in June 2008 on the charge of inciting subversion after she posted articles online alleging corruption and poor living conditions in areas affected by the earthquake. Chinese Human Rights Defenders (Online), "Tug of War Over China's Cyberspace: A Sequel to Journey to the Heart of Censorship (Part II)," 19 March 09.

[32] "Two Young Uyghurs Detained for Distributing Leaflets Calling for Student Demonstration," CECC China Human Rights and Rule of Law Update, No. 1, 2009, 4.

[33] Ibid., citing Xinjiang University (Online), "Xinjiang University Rewards 3 Personnel for Meritorious Service of Preventing Distribution of Reactionary Leaflets" [Xinjiang daxue zhongjiang zhizhi sanfa fandong chuandan de sanming yougong renyuan], 25 December 08.

[34] "Two Young Uyghurs Detained for Distributing Leaflets Calling for Student Demonstration," CECC China Human Rights and Rule of Law Update, No. 1, 2009, 4.

[35] "Over 300 Citizens Issue 'Charter 08'; Several Activists Detained," CECC China Human Rights and Rule of Law Update, December 2008, 1–2.
[36] "'Charter 08' Formal List of 16th Batch of Signatories," Charter 08 Web site (Online), 1 October 09.
[37] "Officials Harass Charter 08 Signers; Liu Xiaobo Under Residential Surveillance," CECC China Human Rights and Rule of Law Update, No. 1, 2009, 3.
[38] Ibid.; "Officials Extend Liu Xiaobo's Residential Surveillance Beyond Legal Time Limit," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 2.
[39] "Beijing Police Formally Arrest Liu Xiaobo on Inciting Subversion Charge," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 2, citing "Liu Xiaobo Arrested for Subversion," Xinhua, reprinted in China Daily (Online), 24 June 09.
[40] Ibid.
[41] "Officials Harass Charter 08 Signers; Liu Xiaobo Under Residential Surveillance," CECC China Human Rights and Rule of Law Update, No. 1, 2009, 3, citing Jonathan Adams, "Charter 08 Worries China," Christian Science Monitor (Online), 6 January 09.
[42] Tang Xiaozhao, "My First 'Tea' Experience," Bosi Xiaozhao Blog (Online), 21 February 09; "Authorities Continue To Widen Scope of Charter 08 Crackdown" [Dangju jixu kuoda "lingba xianzhang" daya fanwei], Radio Free Asia (Online), 2 April 09; "Liu Shasha Still Under House Arrest for Disseminating Charter 08" [Xuanchuan 08 xianzhang liu shasha reng bei ruanjin], Radio Free Asia (Online), 7 April 09.
[43] Civil Rights & Livelihood Watch (Online), "Tiananmen Soldier Zhang Shijun Taken Away From His Home in the Middle of the Night" [Qian liusi jieyan budui junren zhang shijun shenye bei cong jiazhong zhuazou], 20 March 09; Tania Branigan, "Former Tiananmen Soldier Held," Guardian (Online), 21 March 09. See, however, Chinese Human Rights Defenders (Online), "Just Spoke With Zhang Shijun Over Phone, He Thanks Everyone for Their Concern" [Gangcai yu zhang shijun xiansheng tongguo dianhua ta biaoshi ganxie dajia guanxin], 5 April 09. Chinese Human Rights Defenders published a story in which it claimed one of its volunteers spoke directly to Zhang over the phone and that Zhang had said he was free, that reporting about his open letter was not accurate, that he had not been harassed, and that he wanted some peace and quiet and so would temporarily not be accepting media interviews.
[44] Gillian Wong, "Police Hold Tiananmen Activist on Sensitive Day," Associated Press (Online), 15 April 09; Audra Ang, "Tiananmen 20 Years Later: A Survivor's Story," Associated Press (Online) 13 April 09.
[45] Chinese Human Rights Defenders (Online), "Vice-President of Independent Chinese Pen Center and Dissident Author, Jiang Qisheng, Summoned and His Home Raided" [Zhongguo duli bihui fu huizhang diyi zuojia jiang qisheng bei chuanhuan chaojia], 31 March 09; Chinese Human Rights Defenders (Online), "Beijing Dissident Jiang Qisheng Taken Away for Interrogation, Second Time Within Two Months," 18 May 09.
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[49] Chinese Human Rights Defenders (Online), "Police Detain and Harass Activists on Eve of Tiananmen Anniversary," 4 June 09.
[50] "Legal Scholars Make Appeal: Do Not Frequently Use 'Defamation' To Smother Citizen's Right of Supervision" [Faxuejia huyu: buyao dongzhe yi 'feibang' zhiming esha gongmin jianduquan], Legal Daily (Online), 25 May 09.
[51] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 246.
[52] Committee to Protect Journalists (Online), "Falling Short: Olympic Promises Go Unfulfilled as China Falters on Press Freedom," 2008, 36.
[53] Joshua Rosenzweig, "China's Battle Over the Right To Criticize," Far Eastern Economic Review (Online), 1 May 09.
[54] Cai Ke, "Wrongly-Jailed Blogger Fights for Justice," China Daily (Online), 20 May 09.
[55] PRC Constitution, art. 35.
[56] International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 19; Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, art. 29.
[57] UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, para. 71. See also CECC Staff Interviews.
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[60] "Liu Binjie: Outstanding Development Themes Comprehensively Completing All Assignments" [Liu binjie: tuchu fazhan zhuti quanmian wancheng gexiang renwu], China Publishing Group (Online), 14 July 09.

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[63] Vivian Wu, "Ban on Covering Reporter's Arrest," South China Morning Post (Online), 12 December 08.
[64] David Stanway, "Beijing Strikes at Dissidents," Guardian (Online), 4 January 09.
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[67] Ibid.
[68] "Central Propaganda Department Bans Reporting on 'China's Increasing Its Holding of U.S. Stock'" [Zhongxuanbu fengsha 'zhongguo zeng chi meigu' baodao], Ming Pao (Online), 9 March 09.
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[73] Reporters Without Borders (Online), "Information Supplied by Yahoo! Helped Journalist Shi Tao Get 10 Years in Prison," 6 September 05.
[74] "Dian Provincial Party Committee Propaganda Department Deputy Director Wu Hao Answers Questions From Netizens About Eluding the Cat Incident" [Dian shengwei xuanchuanbu fubuzhang wu hao deng jiu "duo mao mao" shijian dayi wangmin], Xinhua (Online), 22 February 09.
[75] Ibid.
[76] CECC Staff Interview.
[77] "Inner Mongolia Press and Publication Bureau Suspends China Business Post," CECC China Human Rights and Rule of Law Update, December 2008, 4. Cui Fan, the author of the July 11 report, filed a lawsuit against the Inner Mongolia Press and Publication Bureau, arguing that the agency failed to follow provisions in the PRC Administrative Punishment Law requiring prior notice to the paper, an opportunity to defend itself, and a comprehensive, objective, and fair investigation. Cui alleged that none of these procedural protections were carried out.
[78] Ibid.; "Chinese Government Increases Censorship by Restricting 'Extra-Territorial' Reporting," Congressional-Executive Commission on China (Online), 12 June 05.
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[81] As noted in the Commission's 2006 Annual Report: "The Chinese Government imposes a strict licensing scheme on news and information media that includes oversight by government agencies with discretion to grant, deny, and rescind licenses based on political and economic criteria." CECC, 2006 Annual Report, 20 September 06, 25.
[82] See, e.g., Notice Regarding Prohibiting the Transmission of Harmful Information and Further Regulating Publishing Order [Guanyu jinzhi zhuanbo youhai xinxi jinyibu guifan chuban zhixu de tongzhi], issued 5 November 01, effective 5 November 01, art. 2: "No one may establish an entity whose primary purpose is to transmit news information and engage in other news publishing activities without permission from the press and publication administration agency."
[83] Regulations on the Administration of Publishing [Chuban guanli tiaoli], issued 25 December 01, effective 1 February 02, art. 29.
[84] Article 11(2) of the Regulations on the Administration of Publishing states that publishing work units must have a sponsoring work unit and a managing work unit recognized by the State Council's publishing administration agency. Ibid., art. 11. The "sponsoring work unit" must be a government agency of a relatively high level, and the publishing work unit must answer to its sponsoring work unit and managing work unit. Circular Regarding Issuance of the "Temporary Provisions on the Functions of the Sponsoring Work Unit and the Managing Work Unit for Publishing Work Units" [Guanyu fabu "Guanyu chuban danwei de zhuban danwei he zhuguan danwei zhize de zanxing guiding" de tongzhi], issued 29 June 93, arts. 5–6; Committee to Protect Journalists (Online), "Falling Short: Olympic Promises Go Unfulfilled as China Falters on Press Freedom," 2008, 24. The government restricts the right to publish to those who can afford to invest at least 300,000 yuan (US$37,500) in registered capital. Regulations on the Administration of Publishing [Chuban guanli tiaoli], issued 25 December 01, effective 1 February 02, art. 11(4) .
[85] Committee to Protect Journalists (Online), "Falling Short: Olympic Promises Go Unfulfilled as China Falters on Press Freedom," 2008, 26.

[86] "Beijing Authorities Raid Non-Governmental Organization Yirenping," Voice of America (Online), 29 July 09; Human Rights in China (Online), "Raid of Public Interest Group Reveals Degree of Information Control," 29 July 09.
[87] "In First 7 Months of Year, 39.256 Million Illegal Publications Seized in Our Country" [Wo guo jinnian qian 7 ge yue shoujiao feifa chubanwu 3925.6 wan jian], China Press and Publishing Journal (Online), 26 August 09.
[88] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 225.
[89] ChinaAid (Online), "Christian Shi Weihan Sentenced to Three Years in Prison for Printing and Giving Away Bibles," 11 June 09. See also, the Congressional-Executive Commission on China Political Prisoner Database for more information. In recent years, authorities have used similar criminal charges to imprison other people for printing and distributing religious texts. See, for example, the cases of Cai Zhuohua, Wang Zaiqing, and Zhou Heng in the Congressional-Executive Commission on China Political Prisoner Database.
[90] Regulations on the Administration of Publishing [Chuban guanli tiaoli], issued 25 December 01, effective 1 February 02, art. 26.
[91] General Administration of Press and Publication (Online), "To Meet 'Two Holidays' and 'Two Sessions' Strengthen Watch Over Publishing Market" [Yinjie "liangjie" "lianghui" jiaqiang chubanwu shichang jianguan], 31 December 08.
[92] State Administration for Industry and Commerce (Online), "Energetically Go Along, A Plan Considering All Factors, State Administration of Industry and Commerce's 2008 Work Regarding 'Sweeping Away Pornography and Striking Against Illegal Publications' Affirmed" [Jiji peihe tongchoujiangu—2008 nian gongshang jiguan "saohuang dafei" gongzuo huo kending], 21 January 09.
[93] See, e.g., Yulin City Government (Online), Circular Regarding More Deeply Carrying Out Operation To Seal Up, Investigate, and Hand In Illegal Political Publications [Guanyu shenru kaizhan zhengzhixing feifa chubanwu fengdu chajiao xingdong de tongzhi], issued 25 May 09, art. 1; Changzhou City Cultural Radio Television Press and Publication Bureau (Online), Changzhou City Vigorously Launches Special Operation To Investigate and Recover Illegal Political Publications [Changzhou shi jiji kaizhan chajiao zhengzhixing feifa chubanwu zhuanxiang xingdong], 21 May 09.
[94] Fujian Province Department of Administration for Transporation Circular Regarding Deeply Carrying Out "Sweep Away Pornography and Strike Down Illegal Publications" Operation [Fujian sheng yunshu guanliju guanyu shenru kaizhan 'shaohuang dafei' xingdong de tongzhi], issued 30 April 09, art. 1, para. 1.
[95] "Harbin Breaks Major Rarely Seen Nationwide Case of Illegal Publications" [Harbin po quanguo hanjian feifa chubanwu da an], Dongbei Net, reprinted in Xinhua (Online), 26 May 09.
[96] "In Tibet Concentrated Burning of Pirated Products Violating Rights and All Types of Illegal Publications" [Xizang jizhong xiaohui qinquan daoban zhipin ji gelei feifa chubanwu], Tibet Daily, reprinted in CCTV (Online), 22 April 09.
[97] "Xinjiang Authorities Block, Punish Free Expression," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 3, citing "Our Region To 'Enlarge Establishment' of Cultural Market Combined Law Enforcement Ranks" [Wo qu jiang "kuobian" wenhua shichang zonghe zhifa duiwu], Xinjiang Daily (Online), 2 March 09.
[98] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09.
[99] See, e.g., ChinaAid (Online), "Annual Report of Persecution by the Government on Christian House Churches Within Mainland China January 2008–December 2008," January 09, 19, 21 (see pages 12 and 20 for examples in 2008 outside the Commission's 2009 reporting year).
[100] "China Requires Journalists To Obtain New Press Cards To Practice Profession," Congressional-Executive Commission on China (Online), 18 March 09.
[101] Ibid., citing Circular Regarding 2009 Exchange and Issuance of Press Cards [Guanyu 2009 nian huanfa xinwen jizhe zheng de tongzhi], issued 20 January 09. Government regulation mandates the issuance of new press cards every five years. Measures for the Administration of Journalist Accreditation Cards, issued 10 January 05, effective 1 March 05, art. 16.
[102] "Liu Binjie: Focal Point for General Administration on Press and Publication This Year Is Striking Against Fake Journalists" [Liu binjie: xinwen chuban zongshu jinnian zhongdian daji jiajizhe], Jinghua Times, reprinted in Xinhua (Online), 4 March 09.
[103] UN Press Release, UN Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Cooperation in Europe Representative on Freedom of the Media, and the Organization of American States Special Rapporteur on Freedom of Expression, "International Experts Condemn Curbs on Freedom of Expression and Control Over Media and Journalists," 18 December 03.
[104] General Administration of Press and Publication (Online), "For Reporters and Editors Series of Regulations To Come Out Strengthening Oversight" [Dui caibian congye renyuan jiaqiang jianguan xilie guiding jiang chutai], 13 February 09.
[105] "China News Workers' Code of Professional Ethics Currently Being Amended, To Be Issued on Journalists' Day" [Zhongguo xinwen gongzuozhe zhiye daode zhunze zheng xiuding jizhejie gongbu], Liberation Daily, reprinted in Xinhua (Online), 5 June 09.
[106] China News Workers' Code of Professional Ethics [Zhongguo xinwen gongzuozhe zhiye daode zhunze], issued January 1991, revised January 1997, preamble.
[107] All-China Journalists Association, Circular Regarding Further Deepening Carrying Out of "Three Items To Study and Learn" Activities for the News Battlefield [Guanyu zai xinwen zhanxian jinyibu shenru kaizhan "sanxiang xuexi jiaoyu" huodong de tongzhi], issued 9 April 09.
[108] Ibid., sec. I, arts. 2, 3.

[109] Ibid., sec. I, art. 3.
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[111] Ashley Esarey, "Cornering the Market: State Strategies for Controlling China's Commercial Media," Asian Perspective, Vol. 29, No. 4, 2005, 54.
[112] Committee to Protect Journalists (Online), "Falling Short: Olympic Promises Go Unfulfilled as China Falters on Press Freedom," 2008, 24.
[113] Evan Osnos, "The Forbidden Zone," New Yorker, 20 July 09.
[114] Committee to Protect Journalists (Online), "Falling Short: Olympic Promises Go Unfulfilled as China Falters on Press Freedom," 2008, 25.
[115] Evan Osnos, "The Forbidden Zone," New Yorker, 20 July 09, 60–61.
[116] UN GAOR, Hum. Rts. Coun., 4th Sess., National Report Submitted in Accordance with Paragraph 15 (A) of the Annex to Human Rights Council Resolution 5/1, A/HRC/WG.6/4/CHN/1, 10 November 08, para. 60. In a section titled "Freedom of speech and of the information media," Chinese officials note that "China now has some 310 radio stations, 350 television stations, some 2,000 newspapers, more than 9,000 periodicals or magazines and has published 240,000 book titles." One official reasoned that news censorship is impossible in China because there are approximately the same number of journalists as police and "if all the police did was supervise journalists, they could do nothing else." CECC Staff Interview.
[117] "Hu Jintao Speech Stresses Media's Role To Serve Party," Congressional-Executive Commission on China (Online), 15 August 08, citing "Speech by Hu Jintao Delivered While Inspecting the Work of Renmin Ribao" [Zai renmin ribao she kaocha gongzuo shi de jianghua], People's Daily (Online), 21 June 08.
[118] City of Shenzhen Urban Management Bureau (Online), "During Research Visit to Shenzhen Newspapers, TV and Radio, and Publishing Groups, Liu Yupu Sends a Message to the Three Major Groups To Improve Revolving Around the Center, To Serve the General Situation in Order To Promote Shenzhen Scientific Development and Supply Strong Support of Public Opinion" [Liu yupu dao shenzhen baoye, guangdian, chuban faxing jituan diaoyan shi jiyu san da jituan jinyibu weirao zhongxin, fuwu daju wei tuidong shenzhen kexue fazhan tigong qiangyouli yulun zhichi], 13 March 09.
[119] General Administration on Press and Publication Guiding Opinion Regarding Further Promoting Reform of News Publication System [Guanyu jin yibu tuijin xinwen chuban tizhi gaige de zhidao yijian], issued 6 April 09, art. 4.
[120] Liu Kang, "How to Forge a Rich and Colorful National Image of China" [Ruhe dazao fengfu duocai de zhongguo guojia xingxiang], People's Daily Online (Online), 5 January 09.
[121] Vivian Wu and Adam Chen, "Beijing in 45b Yuan Global Media Drive," South China Morning Post (Online), 13 January 09.
[122] Henry Sanderson, "China Moves To Make Competitive Publishing Giants," Associated Press (Online), 7 April 09. At least one academic said the policy could spur greater professionalism among Chinese journalists. In April 2009 testimony before the U.S.-China Economic and Security Review Commission, Dr. Judy Polumbaum expressed the view that "specifically in reference to journalism, I would argue that external propaganda efforts in exposing Chinese media workers to international knowledge, ideas and examples create dynamics that further encourage professional trends in China's journalism corps." China's Propaganda and Influence Operations, Its Intelligence Activities That Target the United States, and the Resulting Impacts on U.S. National Security, Hearing of the U.S.-China Economic and Security Review Commission, 30 April 09, Testimony of Dr. Judy Polumbaum, Professor of Journalism and Mass Communications, University of Iowa. Others, however, have taken the view that by consolidating the media industry into fewer entities it would make it easier for propaganda officials to control. CECC Staff Interview.
[123] General Administration on Press and Publication, Guiding Opinion Regarding Further Promoting Reform of News Publication System [Guanyu jin yibu tuijin xinwen chuban tizhi gaige de zhidao yijian], issued 6 April 09, art. 8.
[124] CECC, 2007 Annual Report, 10 October 07, 79–80. See also Reporting the News in China: First-Hand Accounts and Current Trends, Staff Roundtable of the Congressional-Executive Commission on China, 31 July 09, Written Statement Submitted by Ashley Esarey, Visiting Assistant Professor of Politics, Whitman College. In his written statement, Esarey noted: "Media commercialization during the Reform Era (1978–present) changed the incentives for media, which recognized that freer, less doctrinaire reporting appeals to the public. When opportunities appeared, greater media freedom has emerged, although local, rather than central, officials are the targets of critical news reports. In colloquial parlance, Chinese media 'swat flies' but do not 'hit tigers.' Powerful political and economic interests can coerce or bribe media to abandon potentially embarrassing stories."
[125] Circular Regarding Further Completing Work To Safeguard News Reporting Activities [Guanyu jin yibu zuohao xinwen caifang huodong baozhang gongzuo de tongzhi], issued 11 November 08, art. 1. The government also announced that the new press cards would include additional language stating that officials "at people's governments of all levels" should offer assistance and protection to journalists in possession of the card. "Without Reasonable Reason, Public Officials Should Not Refuse Interviews," China Youth Daily (Online), 11 February 09.
[126] Kunming City Government Web Site, "Announcement Regarding Seeking Comment to 'Regulations on Kunming City Prevention of Officials Committing Crimes Work'" [Guanyu zhengqiu "kunming shi yufang zhiwu fanzui gongzuo tiaoli" yijian de gonggao], issued 21 July 09, art. 25(2). See also Wang Jingqiong, "New Law Protects News Media," China Daily (Online), 19 August 09. A Yunnan University journalism professor quoted in the article said the regulation lacked specific definitions of "interference" and "obstruction" and did not explain what the media could supervise legally.
[127] "Shandong Probes Into 'Mental Hospital Detentions,'" China Daily (Online), 9 December 08.

[128] "Xu Zhiyong: Destined To Fight for Social Justice," China Digital Times (Online), 26 November 08.
[129] Chen Zhongxiaolu, "Who Are These Guys Really Representing?" [Tamen daibiao shei?], Caijing (Online), 12 March 09.
[130] Xie Chuanjiao, "Call To Put Inmates in 'Neutral Hands,'" China Daily (Online), 24 March 09.
[131] Qin Xudong: "Why Has 'Green Dam' Met With Skepticism?" ["Luba" weihe zaoyu zhiyi], Caijing (Online), 9 June 09; "Questionable Move," China Daily (Online), 11 June 09.
[132] Bao Daozu, "Activist on Trial for Subversion," China Daily (Online), 13 August 09; Lin Jiasi, "Independent Investigator Put on Trial in Chengdu," Global Times (Online), 13 August 09.
[133] Evan Osnos, "The Forbidden Zone," New Yorker, 20 July 09, 57.
[134] Committee to Protect Journalists (Online), "Falling Short: Olympic Promises Go Unfulfilled as China Falters on Press Freedom," 2008, 24.
[135] "Media Silence in China," Agence France-Presse (Online), 5 June 09. The new English version of Global Times, which is controlled by the Party's flagship People's Daily newspaper, for example, issued a front page report on the atmosphere at Tiananmen Square on June 4, 2009, while Chinese-language domestic news media remained silent on the issue. Jiang Xueqing, "Prosperity Tangible Along Chang'an Ave," Global Times (Online), 4 June 09; Jonathan Ansfield, "English-Language Chinese Newspaper Breaks Silence on Tiananmen Crackdown," New York Times (Online), 4 June 09.
[136] "Hu Jintao Speech Stresses Media's Role To Serve Party," Congressional-Executive Commission on China (Online), 15 August 08, citing "Speech by Hu Jintao Delivered While Inspecting the Work of Renmin Ribao" [Zai renmin ribao she kaocha gongzuo shi de jianghua], People's Daily (Online), 21 June 08.
[137] Ibid.
[138] Josephine Ma, "Crises 'Contained by Controls on Media,'" South China Morning Post (Online), 6 October 08.
[139] "China's Earthquake Coverage More Open but Not Uncensored," CECC China Human Rights and Rule of Law Update, June 2008, 2; CECC, 2008 Annual Report, 31 October 08, 59.
[140] Vivian Wu, "Censors Allow Reports on State Media, but Go To Work on Internet," South China Morning Post (Online), 7 July 09.
[141] Ibid.
[142] One official we spoke with, in describing the areas in which China has improved in press freedom, said that Xinhua reported the Sichuan earthquake just ten minutes after it occurred, beating out Agence France-Presse by six minutes and Associated Press by eight minutes. CECC Staff Interview.
[143] UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, para. 71.
[144] CECC, 2008 Annual Report, 31 October 08, 59.
[145] Ibid., 141.
[146] "State Council Issues New Foreign Journalist Regulations," CECC China Human Rights and Rule of Law Update, November 2008, 3, citing Regulations of the People's Republic of China on News Covering Activities of the Permanent Offices of Foreign News Agencies and Foreign Journalists [Zhonghua renmin gongheguo waiguo changzhu xinwen jigou he waiguo jizhe caifang tiaoli], issued 17 October 08, effective 17 October 08.
[147] "New Rules on Reporting Activities in China a Rollback: HK Journalists," Kyodo, 6 February 09 (Open Source Center, 6 February 09).
[148] Foreign Correspondents' Club of China (Online), "Government Should Allow Reporters Access to Tibetan Areas," 9 March 09.
[149] Foreign Correspondents' Club of China (Online), "Open Letter on Reporting Conditions in Xinjiang," 20 July 09.
[150] "FM Spokesman: Violence in Urumqi Not a Peaceful Protest," Xinhua (Online), 7 July 09.
[151] Foreign Correspondents' Club of China (Online), "Open Letter on Reporting Conditions in Xinjiang," 20 July 09.
[152] Reporting the News in China: First-Hand Accounts and Current Trends, Staff Roundtable of the Congressional-Executive Commission on China, 31 July 09, Written Statement Submitted by Kathleen E. McLaughlin, Chair of Media Freedoms Committee and Secretary, Foreign Correspondents' Club of China. See also Human Rights Watch (Online), "China: New Restrictions Target Media," 18 March 09; Foreign Correspondents' Club of China (Online), "Beijing: Government Should Stop Intimidating Assistants of Foreign Media," 4 March 09.
[153] See, e.g., Christopher Bodeen, "Soldier's Story a New Look at Tiananmen Crackdown," Associated Press (Online), 19 March 09; Audra Ang, "Tiananmen 20 Years Later: A Survivor's Story," Associated Press (Online), 13 April 09; Tang Xiaozhao, "My First 'Tea' Experience," Bosi Xiaozhao Blog (Online), 21 February 09; Andrew Jacobs, "Tiananmen Square Scars Soldier Turned Artist," New York Times (Online), 4 June 09.
[154] International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 19.
[155] Ministry of Foreign Affairs (Online), "Foreign Ministry Spokesperson Liu Jianchao's Regular Press Conference on December 16, 2008," 17 December 08.
[156] UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, para. 71.
[157] Ministry of Foreign Affairs (Online), "Foreign Ministry Spokesperson Qin Gang's Regular Press Conference on March 24, 2009," 24 March 09. In responding to a question about China's blocking of the YouTube Web site, a spokesperson for the Chinese foreign ministry said that it had drawn upon the experience of other countries. The spokesperson specifically cited U.S. regulations, including the Child Protection Act, Digital Millennium Copyright Act, other acts protecting consumers and minors, and intellectual property rights, as well as the Patriot Act.

The official failed to note, however, that these acts have been challenged and litigated before U.S. courts and in some cases provisions have been struck down as being overbroad. No practical equivalent exists in China for citizens to challenge the constitutionality of such provisions even though events this past year indicated widespread discontent with official campaigns nominally aimed at censoring "vulgar" material but which also swept up content deemed politically sensitive. The spokesperson also repeated the common claim that what he considered the sizable number of Internet users, Web sites, and blogs in China is "convincing evidence of the fully open internet in China." The government made similar claims in its National Report to the UN Human Rights Council in November 2008, arguing further that public investment in expansion of information industries is intended to "strengthen the infrastructure that allows citizens to fully enjoy freedom of speech." UN GAOR, Hum. Rts. Coun., 4th Sess., National Report Submitted in Accordance with Paragraph 15 (A) of the Annex to Human Rights Council Resolution 5/1, A/HRC/WG.6/4/CHN/1, 10 November 08, para. 60.

[158] UN GAOR, Hum. Rts. Coun., 4th Sess., National Report Submitted in Accordance with Paragraph 15 (A) of the Annex to Human Rights Council Resolution 5/1, A/HRC/WG.6/4/CHN/1, 10 November 08, para. 60.

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[38] Jiangsu High People's Court Guiding Opinion on the Handling of Labor Dispute Cases in the Current Macroscopic Economic Situation [Jiangsu sheng gaoji renmin fayuan guanyu zai dangqian hongguan jingji xingshi xia tuoshan shenli laodong zhengyi anjian de zhidao yijian], issued 27 February 09, sec. 2, pt. 1.4.
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[40] Highlighted in Ministry of Human Resources and Social Security, All-China Federation of Trade Unions, and China Enterprise Directors Association, Guiding Opinion on How To Maintain Stable Labor Relations in the Current Economic Situation [Guanyu yingdui dangqian jingji xingshi wending laodong guanxi de zhidao yijian], issued 23 January 09; and in Jiangsu High People's Court Guiding Opinion on the Handling of Labor Dispute Cases in the Current Macroscopic Economic Situation [Jiangsu sheng gaoji renmin fayuan guanyu zai dangqian hongguan jingji xingshi xia tuoshan shenli laodong zhengyi anjian de zhidao yijian], issued 27 February 09.
[41] See, e.g., "Reflection on Implementation of the Labor Contract Law" [Shishi "laodong hetong fa" de sikao], Guangming Daily (Online), 4 August 08.
[42] Ministry of Human Resources and Social Security, All-China Federation of Trade Unions, and China Enterprise Directors Association, Guiding Opinion on How To Maintain Stable Labor Relations in the Current Economic Situation [Guanyu yingdui dangqian jingji xingshi wending laodong guanxi de zhidao yijian], issued 23 January 09, secs. 1 and 2.

[43] PRC Law on Mediation and Arbitration of Labor Disputes, enacted 29 December 07, effective 1 May 08, arts. 4, 5 (on negotiation and the application for mediation and arbitration), and 10 (on organizations that provide mediation).

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[46] See, e.g., Regulations To Promote Harmonious Labor Relations in the Shenzhen Special Economic Zone [Shenzhen jingji tequ hexie laodong guanxi cujin tiaoli], issued 23 September 08, effective 1 November 08, arts. 4, 35, 36 (on services by the labor commission and the city and region's labor department), 45 (on the establishment of organizations to promote and carry out labor laws and regulations), 30, 34, 50, 47, 48 (on "group" labor disputes), 49 (on the improvement of mediation), 50 (on the involvement of the regional labor relations committee), and 54 (on the involvement of trade unions).

[47] "Labor Lawsuits Double in 2008," China Labour Bulletin (Online), 3 March 09. See also "Cases Soar as Workers Seek Redress," China Daily (Online), 22 April 09, which suggests that litigation is preferred, for example, because workers seem to win more often (95% of the cases) at that level and get the benefits they demand. Further, "in most labour related cases courts do rule independently and according to legal statute (sic)."

[48] See, e.g., Jiangsu High People's Court Guiding Opinion on the Handling of Labor Dispute Cases in the Current Macroscopic Economic Situation [Jiangsu sheng gaoji renmin fayuan guanyu zai dangqian hongguan jingji xingshi xia tuoshan shenli laodong zhengyi anjian de zhidao yijian], issued 27 February 09, sec. 3. See also "Cases Soar as Workers Seek Redress," China Daily (Online), 22 April 09, which suggests that experts encourage the use of "more out-of-court mediation" with "extensive participation of government departments, labor unions, residents' or villagers' committees as well as mediators." Moreover, as reported in the article, Qiu Baochang, head of Beijing's Huijia Law Firm was quoted as saying, "workers should not rely solely on the courts and arbitration committees. Fair labor treatment can also be achieved through negotiations between workers and enterprises."

[49] Jiangsu High People's Court Guiding Opinion on the Handling of Labor Dispute Cases in the Current Macroscopic Economic Situation [Jiangsu sheng gaoji renmin fayuan guanyu zai dangqian hongguan jingji xingshi xia tuoshan shenli laodong zhengyi anjian de zhidao yijian], issued 27 February 09, sec. 3, pt. 2. For a discussion on handling labor-related cases in people's mediation committees, see also Aaron Halegua, "Getting Paid: Processing the Labor Disputes of China's Migrant Workers," Berkeley Journal of International Law, Vol. 26, No. 1, 2008, 254, 292.

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[51] Ibid. Note that in Jiangsu High People's Court Guiding Opinion on the Handling of Labor Dispute Cases in the Current Macroscopic Economic Situation [Jiangsu sheng gaoji renmin fayuan guanyu zai dangqian hongguan jingji xingshi xia tuoshan shenli laodong zhengyi anjian de zhidao yijian], issued 27 February 09, sec. 3, pt. 4 (guidance to lower level courts), higher level courts are advised to supervise and guide grassroots courts in handling labor dispute cases, especially when there is a large number of them. Further, these courts should investigate or research the reasons and causes.

[52] See generally Ministry of Human Resources and Social Security, All-China Federation of Trade Unions, and China Enterprise Directors Association, Guiding Opinion on How To Maintain Stable Labor Relations in the Current Economic Situation [Guanyu yingdui dangqian jingji xingshi wending laodong guanxi de zhidao yijian], issued 23 January 09. In sec. 2, it is indicated that large and medium-sized state-owned enterprises should take the lead in making efforts to avoid or reduce mass layoffs.

[53] Jiangsu High People's Court Guiding Opinion on the Handling of Labor Dispute Cases in the Current Macroscopic Economic Situation [Jiangsu sheng gaoji renmin fayuan guanyu zai dangqian hongguan jingji xingshi xia tuoshan shenli laodong zhengyi anjian de zhidao yijian], issued 27 February 09, sec. 1; "Guangdong Lowers Social Insurance Premiums To Save Jobs," China Daily (Online), 5 February 09.

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Guiding Opinion on the Handling of Labor Dispute Cases in the Current Macroscopic Economic Situation [Jiangsu sheng gaoji renmin fayuan guanyu zai dangqian hongguan jingji xingshi xia tuoshan shenli laodong zhengyi anjian de zhidao yijian], issued 27 February 09, sec. 2.

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[133] See Ministry of Labour and Social Security (Online), "2006 Statistical Communique on the Development of Labor and Social Security Affairs" [2006 niandu laodong he shehui baozhang shiye fazhan tongji gongbu], last visited 10 October 07. For statistics by year, see data from the National Bureau of Statistics of China Web site. See also Guan Xiaofeng, "Labor Disputes Threaten Stability," China Daily, 30 January 07 (Open Source Center, 30 January 07); "China To Enact Law To Deal With Rising Number of Labor Disputes," Xinhua, 26 August 07 (Open Source Center, 26 August 07); CECC, 2007 Annual Report, 10 October 07, 66.
[134] China Labour Bulletin (Online), "Help or Hindrance to Workers: China's Institutions of Public Redress," 23 April 08, 2.

[135] PRC Labor Law, enacted 5 July 94, effective 1 January 95, amended 10 October 01, art. 36.
[136] China Labour Bulletin (Online), "Falling Through the Floor: Migrant Women Workers' Quest for Decent Work in Dongguan, China," September 2006, 6, 10, 15; CECC, 2008 Annual Report, 31 October 08, 51.
[137] Dexter Roberts and Pete Engardio, "Secrets, Lies, and Sweatshops," Business Week (Online), 27 November 06.
[138] "In the First Half of the Year, Labor Dispute Cases Explode" [Shangban nian zhongguo laodong zhengyi anjian cheng jingpen taishi], Caijing (Online), 13 July 09.
[139] PRC Labor Dispute Mediation and Arbitration Law, enacted 29 December 07, effective 1 May 08, arts. 6, 27, and 39.
[140] "Wages Tumble as Chinese Workers Hunt Factory Jobs," Reuters (Online), 20 February 09.
[141] CECC Staff Interview.
[142] Albert Park and Fang Cai, "The Informalization of the Chinese Labour Market," Paper presented at Breaking Down Chinese Walls Conference, Cornell University, September 2008.
[143] Ibid.
[144] Ibid.
[145] Ibid.
[146] National People's Congress (Online), "National People's Congress Standing Committee Law Enforcement Inspection Team Report on Implementation of the PRC Labor Contract Law" [Quanguo renmin daibiao dahui changwu weiyuanhui zhifa jianchazu guanyu jiancha zhonghua renmin gongheguo laodong hetong fa shishi qingkuang de baogao], 25 December 08.
[147] "Day-Salary Back in Fashion," Economic Observer (Online), 12 February 09; "Economic Crisis Plagues Dollar General, Target, Home Depot and Twin-Star International Workers," China Labor Watch (Online), 12 January 09.
[148] "Migrant Workers Without a Labor Contract Go Unpaid for Nearly a Year," China Labour Bulletin (Online), 25 May 09; "Steel Workers Laid-Off and Rehired as Temporary Employees for Lower Pay," China Labour Bulletin (Online), 3 March 09.
[149] See, e.g., "Enterprises Were Found To Use Child Workers Without Employment Contracts and Workers' Insurance in Zhaoqing" [Zhaoqing bufen qiye yong tonggong wu hetong que baoxian], Xinhua (Online), 6 August 08.
[150] ILO Convention (No. 138) Concerning Minimum Age for Admission to Employment, 26 June 73; ILO Convention (No. 182) Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 17 June 99.
[151] PRC Labor Law, enacted 5 July 94, effective 1 January 95, amended 10 October 01, art. 15. See also PRC Law on the Protection of Minors, enacted 4 September 91, effective 1 January 92, art. 28. See generally PRC Provisions on Prohibiting the Use of Child Labor [Jinzhi shiyong tonggong guiding], issued 18 September 02, effective 1 December 02.
[152] PRC Provisions on Prohibiting the Use of Child Labor [Jinzhi shiyong tonggong guiding], issued 18 September 02, effective 1 December 02, art. 6. See also, e.g., "Legal Announcement: Zhejiang Determines Four Circumstances That Define Use of Child Labor" [Fazhi bobao: zhejiang jieding shiyong tonggong si zhong qingxing], China Woman (Online), 26 July 08.
[153] This provision was added into the fourth amendment to the Criminal Law in 2002. Fourth Amendment to the Criminal Law of the People's Republic of China [Zhonghua renmin gonghe guo xingfa xiuzheng an (si)], issued 28 December 02. See also PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 244.
[154] China Labour Bulletin (Online), "Small Hands: A Survey Report on Child Labor in China," September 2007, 3.
[155] Ibid., 8.
[156] Ibid., 15, 22, 25–32.
[157] For more information on this phenomenon, see International Labour Organization (Online), Report of the Committee of Experts on the Application of Conventions and Recommendations Worst Forms of Child Labour Convention, 1999 (No. 182) China (Ratification: 2002) Observation, CEACR 2006/77th Session, 2006.
[158] David Barboza, "Despite Law, Job Conditions Worsen in China," New York Times (Online), 23 June 09.
[159] China Labor Watch (Online), "Shattered Dreams: Underage Worker Death at Factory Supplying to Disney, Other International Brands," 30 April 09.
[160] For the government response to forced labor in brick kilns, including child labor, see, e.g., Zhang Pinghui, "Crackdown on Slave Labor Nationwide—State Council Vows To End Enslavement," South China Morning Post (Online), 21 June 07.
[161] "China Urged To End 'Child Labor' in Schools," Reuters (Online), 3 December 07; Human Rights Watch (Online), "China: End Child Labor in State Schools," 3 December 07.
[162] Ibid.
[163] PRC Provisions on Prohibiting the Use of Child Labor, issued 18 September 02, effective 1 December 02, art. 13.
[164] PRC Education Law, enacted 18 March 95, effective 1 September 95, art. 58.
[165] See generally PRC Regulations on Nationwide Temporary Work-Study Labor for Secondary and Elementary Schools [Quanguo zhong xiaoxue qingongjianxue zanxing gongzuo tiaoli], issued and effective 20 February 83.
[166] ILO Convention 138 permits vocational education for underage minors only where it is an "integral part" of a course of study or training course. ILO Convention 182 obligates Member States to eliminate the "worst forms of child labor," including "forced or compulsory labor." ILO Convention (No. 138) Concerning Minimum Age for Admission to Employment, 26 June 73; ILO Convention (No. 182) Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 17 June 99.

[167] International Labour Organization, "Report of the Committee of Experts on the Application of Conventions and Recommendations, Worst Forms of Child Labour Convention," 1999.
[168] "Police Free 32 Mentally-Handicapped From Forced Labor, Arrest 10 Suspects," Xinhua (Online), 22 May 09; Qiu Quanlin, "32 Freed as Second Slave Labor Racket Busted," China Daily (Online), 23 May 09.
[169] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 244. ("Where an employer, in violation of the laws and regulations on labor administration, compels its employees to work by restricting their personal freedom, if the circumstances are serious, the persons who are directly responsible for the offence shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined.")
[170] CECC, 2007 Annual Report, 10 October 07, 72, citing Ng Tze-wei, "Lawyers' Group Calls for Anti-Slavery Law," South China Morning Post (Online), 10 July 07.
[171] "In Response to Brick Kiln Cases, Chinese People's Political Consultative Conference Members Propose Criminalizing the Use of Violence To Coerce a Person To Work" [Zhengxie weiyuan zhendui hei zhuanyao an tiyi she baoli qiangpo laodong zui], Procuratorial Daily (Online), 11 March 08; "Commentary: This Is Slavery, but There Is No Slavery Charge" [Zhe shi nuyi, que meiyou nuli zuiming], Southern Metropolitan Daily (Online), 9 April 08.
[172] These other rights are "(b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; and (d) the elimination of discrimination in respect of employment and occupation." International Labour Organization (Online), ILO Declaration on Fundamental Principles and Rights at Work, 18 June 98, art. 2.
[173] See International Labour Organization (Online), "ILO Tripartite Constituents in China," viewed 27 September 07.
[174] International Labour Organization (Online), ILO Declaration on Fundamental Principles and Rights at Work, 18 June 98, art. 2. China has been a member of the ILO since its founding in 1919. For more information, see the country profile on China in the ILO database of national labor, social security, and human rights legislation (NATLEX) (Online).
[175] International Labour Organization (Online), "Ratifications of the Fundamental Human Rights Conventions by Country," 11 September 07.
[176] International Labour Organization (Online), "China: Forced Labor and Trafficking: The Role of Labour Institution in Law Enforcement and International Cooperation," August 2005.
[177] See generally PRC Labor Law, enacted 5 July 94, art. 12.
[178] International Covenant on Economic, Social and Cultural Rights adopted by General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 3 January 76, art. 8.
[179] Declarations and Reservations, United Nations Treaty Collection (Online), 5 February 02. Article 10 of China's Trade Union Law establishes the All-China Federation of Trade Unions as the "unified national trade union federation," and Article 11 mandates that all unions must be approved by the next higher level union body, giving the ACFTU an absolute veto over the establishment of any local union and the legal authority to block independent labor associations. PRC Trade Union Law, enacted and effective 3 April 92, amended 27 October 01, arts. 10, 11.

Notes to Section II—Criminal Justice

[1] See, e.g., Willy Lam, "CCPLA: Tightening the CCP's Rule Over Law," China Brief, 2 April 09, 3; Ni An, "CCP Leadership Establishes Special Group To Ensure 'Social Stability' During Sensitive Anniversaries" [Zhonggong gaoceng chengli zhuanmen xiaozu ying dui mingan jinianri quebao shehui wending], Radio France Internationale (Online), 10 March 09; Peter Ford, "China Cracks Down Ahead of Sensitive Anniversaries," Christian Science Monitor (Online), 8 April 09.
[2] Wu Zhongmin, "Pay Close Attention to Social Problems Amid Economic Downturn," Outlook Weekly, 23 February 09 (Open Source Center, 6 March 09); Ching Cheong, "China Acts To Defuse 'Crisis Year,'" Singapore Straits Times (Online), 2 March 09; Zhuang Gong, "The CPC Gives Prominence to Maintaining Social Stability and Stresses the Importance of the People's Livelihood During This Special Period," Hong Kong China News Agency, 4 June 09 (Open Source Center, 4 June 09); Yang Jun, "Breaking Inertia of Maintaining 'Status Quo,'" Southern Wind Window, 8 April 09–21 April 09 (Open Source Center, 22 May 09); "China Vows To Address Public Complaints To Maintain Social Stability," Xinhua (Online), 5 March 09; Jonathan Adams, "Charter 08: A 'Universal Idea,'" Far Eastern Economic Review (Online), 6 February 09. Zhang Zuhua, one of the principal drafters of Charter 08, stated that during his interrogation in December 2008 the police told him that "high levels of the central government" were very concerned about instability and chaos during 2009.
[3] See, e.g., Jeffrey Wasserstrom, "China's Anniversary Tempest," openDemocracy (Online), 25 February 09; Ni An, "CCP Leadership Establishes Special Group To Ensure 'Social Stability' During Sensitive Anniversaries" [Zhonggong gaoceng chengli zhuanmen xiaozu ying dui mingan jinianri quebao shehui wending], Radio France Internationale (Online), 10 March 09; Peter Ford, "China Cracks Down Ahead of Sensitive Anniversaries," Christian Science Monitor (Online), 8 April 09; Perry Link, "China's Charter 08," New York Review of Books (Online), 15 January 09; Jeffrey Wasserstrom, "Tiananmen at Twenty," Nation (Online), 27 May 09.
[4] Ng Tze-wei, "Riots on Rise as Cadres at Fault, Magazine Says," South China Morning Post (Online), 8 September 09; "Our Country To Launch Half-Year Campaign To Rectify Public Order To Welcome 60th Anniversary of Country's Founding" [Woguo jiang kaizhan bannian zhi an zhengzhi xingdong yingjie jianguo 60 zhounian], China News Net, reprinted in Sina (Online), 27 April 09; "Crackdown on Crime in Run-Up to National Day," China Daily (Online), 28 April 09; Christopher Bodeen, "Chinese Official Calls for Heightened Security," Associated Press (Online), 1 April 09.
[5] As the Commission noted in its 2008 Annual Report, black jails are secret detention centers that exist entirely outside the legal system, and which are used primarily to illegally detain petitioners. See CECC, 2008 Annual Report, 31 October 08, 34–35. See also "China's 'Black Jails'

Uncovered," Al Jazeera (Online), 27 April 09 (video segment by Melissa Chan); Jamil Anderlini, "Punished Supplicants," Financial Times (Online), 5 March 09; Chinese Human Rights Defenders (Online), "'Black Jails': China's Growing Network of Illegal and Secret Detention Facilities," 19 October 08.

[6] The authorities' use of soft detention (illegal home confinement, or *ruanjin*) and surveillance was so extreme around June 4 that individuals targeted for such treatment launched an "Anti-Soft Detention and Anti-Surveillance United Movement." Ma Lin and Wang Wei, Chinese Human Rights Defenders (Online), "Charter 08 Signatories Launch 'Anti-Soft Detention Anti-Surveillance United Movement'" [Lingba xianzhang qianshu ren faqi "fan ruanjin fan jiankong lianhe da xingdong"], 20 June 09.

[7] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09, sec. 1.a (noting "serious irregularities" during Yang's trial). See discussion of cases of Deng Yujiao and Yang Jia in Access to Counsel and Fairness of Criminal Trials subsections, and elsewhere in this section.

[8] See, e.g., Ng Tze-Wei, "Legal Experts Worried by Decision To Free Waitress," South China Morning Post (Online), 18 June 09; "Deng Yujiao Tells Her Story," EastSouthWestNorth (Online), 26 May 09 (translating account published in Southern Metropolitan Daily); Teng Biao, "The Law on Trial in China," Washington Post (Online), 25 July 09.

[9] Maureen Fan, "Confessed Police Killer Lionized by Thousands in China," Washington Post (Online), 14 November 08, quoting an American commentator as saying that "[s]upport for Yang Jia shows intolerance for police brutality and authority exercised without restraint."

[10] Wang Yan, "The Hands That Pull the Lever," NEWSCHINA (published by China Newsweek Corporation), 5 July 09, 15; Raymond Li, "Web of Support," South China Morning Post (Online), 10 June 09; Alexa Olesen, "Chinese Praise Waitress Held for Stabbing Official," Associated Press, reprinted in Washington Post (Online), 22 May 09; Yu Jianrong (interviewed by Wu Huaiting), "Local Abuses Main Reason for Mass Incidents," Global Times (Online), 1 September 09.

[11] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. II; "Top Prosecuting Body Starts Jail Safety Drive After Inmate Deaths," South China Morning Post (Online), 21 April 09.

[12] The announcement related to a regulation that would soon be released by the Supreme People's Procuratorate regarding the inadmissibility of such confessions. The regulation will reportedly apply only to death penalty cases, "as a starting point." Ng Tze-wei, "Anti-Torture Measures in Works, Paper Says," South China Morning Post (Online), 11 August 09.

[13] "New Lawyers Law Is 'One Year Old': The 'Three Difficulties' Have Not Yet Been Resolved" [Xin lushifa 'zhousui': 'sannan' reng wei jiejue], Southern Metropolitan Daily (Online), 4 June 09; CECC Staff Interviews.

[14] Xie Chuanjiao, "Beijing Ready for Lethal Injections," China Daily (Online), 16 June 09; "Firing Squads To Be Phased Out as Beijing Moves to Lethal Injections," Reuters, reprinted in South China Morning Post (Online), 17 June 09.

[15] Ibid.

[16] The domestic security protection units (*guobao zhidui*) are contained within the public security bureaus. One of their responsibilities is to monitor, investigate, and conduct surveillance of, among others, dissidents, activists, family members of political prisoners, former political prisoners, human rights lawyers, house church leaders, and implementing illegal home confinement or "soft detention" (*ruanjin*).

[17] See, e.g., Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, arts. 3, 5, 9, 19, 20 (hereinafter UDHR); International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, arts. 7, 9(1), 19(1) and (2), 21, 22(1) (hereinafter ICCPR); PRC Constitution, arts. 35, 37, 41; PRC Criminal Procedure Law, enacted 1 July 79, amended 17 March 96, effective 1 January 97, art. 3; PRC Public Security Administration Punishment Law, enacted 28 August 05, effective 1 March 06, arts. 3, 9, 10, 16; PRC Legislation Law, enacted 15 March 00, effective 1 July 00, art. 8(v).

[18] Amnesty International (Online), Justice Denied: Harassment of Sichuan Earthquake Survivors and Activists, May 2009, 22.

[19] Jamil Anderlini, "Punished Supplicants," Financial Times (Online), 6 March 09.

[20] Ibid.

[21] Ariana Eunjung Cha, "Grieving Parents Gain Clout in China: Party Steps Lightly in Wake of Disasters," Washington Post (Online), 28 March 09.

[22] Chinese Human Rights Defenders (Online), "Beijing Lawyer Cheng Hai Assaulted by Officials for Representing Falun Gong Practitioner," 14 April 09; China Human Rights Lawyers Concern Group (Online), "Beijing Lawyers Li Chunfu and Zhang Kai Beaten for Representing Re-education Through Labour Camp Death Case," 14 May 09; Chinese Human Rights Defenders (Online), "Charter 08 Original Signatory Lawyer Tan Jitian Released Back to His Home" ["Ling ba xianzhang" shoupi qianshuren tang jitian lüshi bei fang huijiazhong], 7 June 09.

[23] See, e.g., Jerome A. Cohen and Eva Pils, "The Disappearance of Gao Zhisheng," Wall Street Journal (Online), 9 February 09. Zheng Enchong's record of detention is searchable through the CECC's Political Prisoner Database. China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Testimony of Jerome A. Cohen, Professor of Law, New York University Law School, Co-Director of U.S.-Asia Law Institute.

[24] Liu Fang, Chinese Human Rights Defenders (Online), "Shanghai Police Have Summoned Zheng Enchong 10 Times in Half a Month" [Shanghai jingfang dui zheng enchong banyue nei 10 ci chuanhuan], 24 April 09; Human Rights in China (Online), "Shanghai Rights Defender Harassed on Heels of National Human Rights Action Plan Release," 15 April 09. Zheng has also suffered physical abuse at the hands of the Shanghai Public Security Bureau; during an interrogation in June, he was stripped to his underwear and beaten, and lit cigarettes were held to

his lips and eyelids. See ChinaAid (Online), "Christian Attorney Zheng Enchong Interrogated and Tortured by PSB," 23 June 09.

[25] See, e.g., Jerome A. Cohen and Eva Pils, "The Disappearance of Gao Zhisheng," Wall Street Journal (Online), 9 February 09; Jerome A. Cohen, "Beijing Must Reveal Fate of Human Rights Lawyer," South China Morning Post (Online), 19 March 09.

[26] Chinese Human Rights Defenders (Online), "Over One Hundred Signatories Harassed Since Launch of Charter 08," 8 January 09. Professor Andrew Nathan recently described Charter 08 as "the most broadly based and intellectually sophisticated challenge to [the regime's] principles of rule since Tiananmen itself." Andrew Nathan, "Authoritarian Impermanence," Journal of Democracy, July 2009, 40. In late March 2009, domestic security protection (*guobao*) officers warned Jiang Qisheng, a Beijing-based writer, activist, and signatory of Charter 08, not to engage in any activities commemorating the 20th anniversary of the violent suppression of the 1989 Tiananmen protests. Officers searched his home and took three computers, several bank deposit books, and many manuscripts and books. Liang Qiwen, Chinese Human Rights Defenders (Online), "Beijing Dissident Jiang Qisheng Summoned, Home Searched: Police Actions Stepped Up in Advance of Anniversary of Tiananmen Massacre," 1 May 09.

[27] Vivian Wu, "Dissidents Held for Collecting 300 Signatures," South China Morning Post (Online), 10 December 08; Liang Qiwen, Chinese Human Rights Defenders (Online), "Beijing Dissident Jiang Qisheng Summoned, Home Searched: Police Actions Stepped Up in Advance of Anniversary of Tiananmen Massacre," 1 May 09; Jane Macartney, "Leading Chinese Dissident, Liu Xiaobo, Arrested Over Freedom Charter," Times of London (Online), 10 December 08.

[28] Vivian Wu, "Dissidents Held for Collecting 300 Signatures," South China Morning Post (Online), 10 December 08.

[29] Jane Macartney, "Leading Chinese Dissident, Liu Xiaobo, Arrested Over Freedom Charter," Times of London (Online), 10 December 08.

[30] Liang Qiwen, Chinese Human Rights Defenders (Online), "Beijing Dissident Jiang Qisheng Summoned, Home Searched: Police Actions Stepped Up in Advance of Anniversary of Tiananmen Massacre," 1 May 09.

[31] ChinaAid (Online), "8 Human Rights Groups in China Issue Unprecedented Open Statement to Government," 3 April 09. The groups that issued the "Chinese Citizens' Rights Defense Declaration" (Declaration) include the Chinese League of Victims, the Provisional Committee of Chinese Farmers' Rights Defense Association, China Rights Defense Alliance, Chinese Christian House Church Alliance, and the China Human Rights Lawyers Concern Group.

[32] ChinaAid (Online), "8 Human Rights Groups in China Issue Unprecedented Open Statement to Government," 3 April 09.

[33] Ibid.

[34] See, e.g., David W. Chen, "How the Family of a Dissident Fled China," New York Times (Online), 9 May 09; Human Rights in China (Online), "Torture Account by Missing Rights Defense Lawyer Gao Zhisheng," 8 February 09; Human Rights in China (Online), "Wife of Abducted Rights Defense Lawyer Gao Zhisheng Requests Urgent Help From U.S. Congress in Open Letter," 23 April 09; Teng Biao, "I Cannot Give Up: Record of a Kidnapping," China Rights Forum, No. 1, 2009, 37–38; The UN Human Rights Council's Review of China's Record: Process and Challenges, Staff Roundtable of the Congressional-Executive Commission on China, 16 January 09, Ms. Li Xiaorong, Senior Researcher, Institute for Philosophy and Public Policy, University of Maryland, Remarks During Question and Answer Period.

[35] Chinese Human Rights Defenders (Online), "Police Summon Beijing Intellectual Zhang Zuhua, China Continues Crackdown on Charter 08," 29 December 08.

[36] Ma Lin and Wang Wei, Chinese Human Rights Defenders (Online), "Charter 08 Signatories Launch 'Anti-Soft Detention Anti-Surveillance United Movement'" [Lingba xianzhang qianshu ren faqi "fan ruanjin fan jiankong lianhe da xingdong"], 20 June 09.

[37] "Chen Guangcheng in Poor Health and Yuan Weijing Beaten; Hong Kong China Human Rights Lawyers Concern Group Calls for Public Support" [Chen guangcheng shenti qianjia ji yuan weijing beiou xianggang zhongguo weiquan lüshi guanzhu zu shengyuan], Radio Free Asia (Online), 22 April 09.

[38] "Chen Guangcheng in Poor Health and Yuan Weijing Beaten; Hong Kong China Human Rights Lawyers Concern Group Calls for Public Support" [Chen guangcheng shenti qianjia ji yuan weijing beiou xianggang zhongguo weiquan lüshi guanzhu zu shengyuan], Radio Free Asia (Online), 22 April 09; "Yuan Weijing Beaten By Guards Again" [Yuan weijing you zao kanshouren weigong ouda], Radio Free Asia (Online), 20 April 09; Amnesty International (Online), "Wife of Human Rights Activist Beaten," 20 April 09.

[39] "Activists Claim Harassment Because of Clinton's Arrival," South China Morning Post (Online), 22 February 09 (based on Agence France-Press and Associated Press reports); Christopher Bodeen, "Dissidents Held During Clinton Beijing Visit," Associated Press (Online), 21 February 09; Zeng Jinyan, "Soft Detention! Soft Detention!" [Ruanjin! ruanjin!], Zeng Jinyan's Blog (Online), 21 February 09.

[40] David W. Chen, "How the Family of a Dissident Fled China," New York Times (Online), 9 May 09; "Rights Dissident's Family Flees to US," Reuters (Online), 13 March 09; Bill Schiller, "Fears Grow Over Chinese Lawyer's Disappearance," Toronto Star (Online), 13 April 09.

[41] Yu Jianrong, (interviewed by Wu Huaiting), "Local Abuses Main Reason for Mass Incidents," Global Times (Online), 1 September 09; Does China Have a Stability Problem? Staff Roundtable of the Congressional-Executive Commission on China, 27 February 09, Testimony of Jacques deLisle, Professor of Law, University of Pennsylvania Law School, and Director, Asia Program, Foreign Policy Research Institute.

[42] Wang Weilan, "Petitioners Say Blueprint Proves Their School Made of 'Tofu,'" Global Times (Online), 15 May 09; Amnesty International (Online), "Justice Denied: Harassment of Sichuan Earthquake Survivors and Activists," May 2009, 10.

[43] Jonathan Watts, "China Voices: The Petitioner," Guardian (Online), 21 May 09.

[44] UN Committee Against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, CAT/C/CHN/CO/4, 12 December 08, paras. 15, 19.

[45] UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, CAT/C/CHN/CO/4, 12 December 08, paras. 15, 19. New York University Law School professor Jerome Cohen, a leading American expert on Chinese law, has observed that "one of the biggest headaches in Chinese justice today is that the police take many measures that are not authorized—and to assist them they use non-police people who are just ad hoc recruited." Quoted in Jamil Anderlini, "Punished Supplicants," Financial Times (Online), 6 March 09.

[46] UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, CAT/C/CHN/CO/4, 12 December 08, para. 18.

[47] Jerome A. Cohen and Eva Pils, "The Disappearance of Gao Zhisheng," Wall Street Journal (Online), 9 February 09; Jerome A. Cohen, "Beijing Must Reveal Fate of Human Rights Lawyer," South China Morning Post (Online), 19 March 09. Another example involved an assault on a 75-year-old retired professor in Shandong province who attempted to pay respects to Zhao Ziyang, the former Secretary General of the Communist Party who was sacked after he refused to support the use of violence against protesters in June 1989. On April 5, a day to honor the dead in China, Sun Wenguang was reportedly attacked by five men while he was on his way to a local monument on Heroes' Mountain to pay his respects to Zhao. Although several police cars followed Sun to the cemetery, and were parked not far from where he was attacked, "the police hid somewhere and did not stop the violence," Sun told the Christian Science Monitor. Sun ended up in an intensive care unit with three broken ribs. Peter Ford, "China Cracks Down Ahead of Sensitive Anniversaries," Christian Science Monitor (Online), 8 April 09. See also Chinese Human Rights Defenders (Online), "Shandong Professor Assaulted for Commemorating Reformist Leader Zhao Ziyang," 7 April 09; "Chinese Pensioner Recounts Beating for Bid To Commemorate 1989 Leader Zhao," Sydney Radio National, 9 April 09 (Open Source Center, 9 April 09).

[48] Melissa Chan, "China's 'Black Jails' Uncovered," Al Jazeera (Online), 27 April 09 (video accompanying the article contains interview with Xu Zhiyong); Xu Zhiyong, "A Visit to One of Beijing's 'Black Jails,'" translated by the Black and White Cat Blog, Black and White Cat Blog (Online), 13 October 09.

[49] Xu Zhiyong, "A Visit to One of Beijing's 'Black Jails,'" translated by the Black and White Cat Blog, Black and White Cat Blog (Online), 13 October 09.

[50] Willy Lam, "CCPLA: Tightening the CCP's Rule Over Law," China Brief, 2 April 09, 4.

[51] Open Constitution Initiative (Online), "The Ten Legal Events of 2008 Listed by OCI," 24 February 09 (Web site no longer accessible); See also Willy Lam, "CCPLA: Tightening the CCP's Rule Over Law," China Brief, 2 April 09, 4 (noting that the official Outlook Weekly had quoted Hainan residents in the wake of an attack on local police stations "as saying that they had lost trust in law-enforcement officials 'because they are corrupt and they offer protection to criminals'").

[52] Ariana Eunjung Cha, "Flare-Ups of Ethnic Unrest Shake China's Self-Image," Washington Post (Online), 19 July 09.

[53] Ariana Eunjung Cha, "Flare-Ups of Ethnic Unrest Shake China's Self-Image," Washington Post (Online), 19 July 09; Open Constitution Initiative (Online), "About Us," last visited 15 July 09 (Web site no longer accessible). Caijing's editor-in-chief Hu Shuli wrote in a July editorial that "[u]nder China's current legal system, the police function is more powerful than in countries with established rule of law. The police and prosecutors, therefore, should be more restrained and cautious in exercising power so that clumsy law enforcement does not trigger public resentment." Hu Shuli, "Heeding the Lessons of China's Civil Unrest," Caijing (Online), 7 July 09.

[54] "Disgruntled Victims of Police Violence Sign Petition in China," Epoch Times (Online), 30 August 09.

[55] Ng Tze-wei, "Riots on Rise as Cadres at Fault, Magazine Says," South China Morning Post (Online), 8 September 09. Mu Mu-ying, "Number of Group Protests Exceeds 120,000 in 2008; Zhou Yongkang Admits That People Rebel Because of Cadres' Misconduct," Cheng Ming, 1 February 09 (Open Source Center, 17 July 09).

[56] "Ministry of Public Security Reports Rise in Public Order Disturbances in 2005," Congressional-Executive Commission on China (Online), 30 January 06; CECC, 2006 Annual Report, 20 September 06, 45.

[57] Mu Mu-ying, "Number of Group Protests Exceeds 120,000 in 2008; Zhou Yongkang Admits That People Rebel Because of Cadres' Misconduct," Cheng Ming, 1 February 09 (Open Source Center, 17 July 09). (Although Open Source Center translates "qunti" as "group," the word "mass" is consistent with how "qunti" is used in the term "mass incident" (*quntixing shijian*). See also Mark O'Neill, "Legal Crusaders on the March," 8 September 09 (also noting the report from the Central Committee for Comprehensive Management of Public Security that more than 12.1 million people participated in 127,000 unauthorized protests during 2008).

[58] See, e.g., Yu Jianrong, "Rigid Stability: An Explanatory Framework for China's Social Situation" [Yu jianrong: gangxing wending zhongguo shehui xingshi de yi ge jieshi kuangjia], Southeast News Agency, reprinted in QQ News (Online), 9 May 09. An English translation of Yu's presentation is available on the China Digital Times Web site: Yu Jianrong, "Rigid Stability: An Explanatory Framework for China's Social Situation (Part 1)," 9 May 09, translated by David Kelly and reprinted in China Digital Times (Online), 26 May 09. See also Ariana Eunjung Cha, "Flare-Ups of Ethnic Unrest Shake China's Self-Image," Washington Post (Online), 19 July 09; Yang Jun, "Breaking Inertia of 'Maintaining Status Quo,'" Southern Wind Window, 8 April 09–21 April 09 (Open Source Center, 22 May 09); Mu Mu-ying, "Number of Group Protests Exceeds 120,000 in 2008; Zhou Yongkang Admits That People Rebel Because of Cadres' Mis-

conduct," Cheng Ming, 1 February 09 (Open Source Center, 17 July 09); Carl Minzner, "Are Mass Incidents Increasing or Decreasing in China?" Chinese Law and Politics Blog (Online), 31 March 07; Email communication with Professor Carl Minzner, 23 July 09. Bao Tong, top aide to Zhao Ziyang, stated in an interview this year about the 1989 Tiananmen protests, that every day in China there are "miniature Tiananmens . . . in counties and villages where people try to show their discontent and the government sends 500 policemen to put them down." Jamil Anderlini, "Tea With the FT: Bao Tong," Financial Times (Online), 29 May 09.

[59] See, e.g., "Police Cars Overturned in Southern China Protest," Agence France-Presse (Online), 15 June 09 (Open Source Center, 15 June 09); Cao Li, "Assaults on Police Rise in Shanghai," China Daily (Online), 13 June 09.

[60] Malcolm Moore, "Tens of Thousands of Chinese Fight the Police in Shishou," Telegraph (Online), 22 June 09; Zhan Caiqiang, "Cook Dies in Unusual Circumstances, Crowd Gathers and Block Streets," Southern Metropolitan Daily, 22 June 09 (Open Source Center, 22 June 09). The police preliminarily declared Tu's fall from the third floor of the hotel a suicide; the protesters and the cook's family claimed it was a murder that the government was trying to cover up. See Cai Ke, "Family of Dead Man Held for Riots," China Daily (Online), 23 July 09.

[61] Cai Ke, "Family of Dead Man Held for Riots," China Daily (Online), 23 July 09. Malcolm Moore, "Tens of Thousands of Chinese Fight the Police in Shishou," Telegraph (Online), 22 June 09; Lucy Hornby, "Chinese Police Detain Three After Shishou Riot," Reuters, reprinted in South China Morning Post (Online), 23 July 09.

[62] Cai Ke, "Family of Dead Man Held for Riots," China Daily (Online), 23 July 09; Malcolm Moore, "Tens of Thousands of Chinese Fight the Police in Shishou," Telegraph (Online), 23 June 09; Lucy Hornby, "Chinese Police Detain Three After Shishou Riot," Reuters, reprinted in South China Morning Post (Online), 23 July 09.

[63] Cai Ke, "Family of Dead Man Held for Riots," China Daily (Online), 23 July 09; Sam Verran, China Elections and Governance (Online), "Shishou Official Speaks Out About Riot," 1 July 09; Zhan Caiqiang, "Cook Dies in Unusual Circumstances, Crowd Gathers and Block Streets," Southern Metropolitan Daily, 22 June 09 (Open Source Center, 22 June 09) (reporting that "a number of police officers were injured").

[64] Sam Verran, China Elections and Governance (Online), "Shishou Official Speaks Out About Riot," 1 July 09.

[65] Sam Verran, China Elections and Governance (Online), "Shishou Official Speaks Out About Riot," 1 July 09 (Li's blog post was translated into English by China Elections and Governance). In late July, police detained Tu's brother and two of his cousins for disrupting public order in connection with the riot. See Lucy Hornby, "Chinese Police Detain Three After Shishou Riot," Reuters, reprinted in South China Morning Post (Online), 23 July 09. See also Yu Jianrong (interviewed by Wu Huaiting), "Local Abuses Main Reason for Mass Incidents," Global Times (Online), 1 September 09. Yu Jianrong, Director of the Social Problems Research Center, Rural Studies Institute, at CASS, stated that "[l]ocal governments and officials often side with the offenders and mobilize the police to crack down on the people, which results in violent incidents and severe social consequences."

[66] "Hundreds Rally in China Over Police Beating," Agence France-Presse, reprinted in Google (Online), 21 May 09; Wu Gang, "Anti-Police Sentiment Spills," Global Times (Online), 21 May 09; "Mass Incident in Gansu: Request That Traffic Police Who Hit People Be Punished" [Gansu qunti shijian yaoqiu chengfa da ren jiaojing], Voice of America, reprinted in Chinese Human Rights Defenders (Online), 21 May 09.

[67] "Hundreds Rally in China Over Police Beating," Agence France-Presse, reprinted in Google (Online), 21 May 09. In another clash between police and citizens in May, Vietnamese Chinese tea farmers in Yingde city, Guangdong province, clashed with police over the detention of four farmers' representatives who were seeking redress for grievances relating to the expropriation of their land. According to an account provided by the villagers to the Washington Post, what began as a small peaceful protest by 30 or so villagers grew into a crowd of several thousand, and the confrontation turned violent when hundreds of riot police from neighboring towns arrived and started beating people up. A police station was attacked and several police cars burned. See Ariana Eunjung Cha, "Flare-Ups of Ethnic Unrest Shake China's Self-Image," Washington Post (Online), 19 July 09; "Tea Farmers Attack Police Stations," Agence France-Presse, reprinted in South China Morning Post (Online), 26 May 09.

[68] Eva Pils, "Yang Jia and China's Unpopular Criminal Justice System," China Rights Forum, No. 1, 2009, 59–60; Zhang Lijia, "Crime and Punishment: The Mainland Is Moving Away From Indiscriminate Death Sentences, but Injustices Remain," South China Morning Post (Online), 2 December 08.

[69] Eva Pils, "Yang Jia and China's Unpopular Criminal Justice System," China Rights Forum, No. 1, 2009, 59–60.

[70] Rebecca MacKinnon, "Ai Weiwei: On Taking Individual Responsibility," RConversation (Online), 23 January 09.

[71] Ibid.

[72] Ibid.

[73] Open Constitution Initiative (Online), "The Ten Legal Events of 2008 Listed by OCI," 24 February 09, last visited 15 July 09 (Web site no longer accessible). Yang Jia's case ranked number one on the list; at number eight was the killing of Wei Wenhua, who was beaten to death in January 2008 by more than 30 *chengguan* in Wanba village in Hubei province, after he began taking photos of urban management officers beating up protesting villagers. Wei's death prompted calls for the abolition of the urban management system, which is widely perceived as lawless and rife with abuses. See also David Bandurski, China Media Project (Online), "Brutal Killing of (citizen journalist) Wei Wenhua Underscores the Evils of China's 'Urban Management' System," 10 January 08; "Guide to Beating Law-Breakers Sparks Outrage," Agence France-Presse, reprinted in South China Morning Post (Online), 23 April 09.

[74] David Bandurski, China Media Project (Online), "Brutal Killing of (citizen journalist) Wei Wenhua Underscores the Evils of China's 'Urban Management' System," 10 January 08; "Guide to Beating Law-Breakers Sparks Outrage," Agence France-Presse, reprinted in South China Morning Post (Online), 23 April 09.

[75] See, e.g., Austin Ramzy, "Above the Law? China's Bully Law-Enforcement Officers," Time (Online), 21 May 09; Joel Martinsen, "A Practical Handbook for Beating Street Vendors," Danwei (Online), 22 April 09. *Chengguan* is also translated as "city administration enforcement" (Danwei) or "city management" (Time). Chinese Human Rights Defenders (Online), "Beijing Lawyer Cheng Hai Assaulted by Officials for Representing Falun Gong Practitioner," 14 April 09; "Beijing City Authority Beats Peddler, Thousands Surround and Watch, Authorities Detain Peddler and Threaten Witnesses" [Beijing chengguan ouda xiaofan qian ren weiguan dangju juliu xiafan weihe mujizhe], Radio Free Asia (Online), 25 March 09.

[76] Tania Branigan, "Chinese Law Enforcers Told: Don't Leave Blood on Their Faces," Guardian (Online), 23 April 09; "Guide to Beating Law-Breakers Sparks Outrage," Agence France-Presse, reprinted in South China Morning Post (Online), 23 April 09.

[77] "Student Demonstrators Clash With Police in Nanjing," South China Morning Post (Online), 20 May 09; Austin Ramzy, "Above the Law? China's Bully Law-Enforcement Officers," Time (Online), 21 May 09. According to the Hong Kong-based Information Center for Human Rights and Democracy, 30 students were injured, a police car was smashed, and 3 students were taken away by the police. See "Student Demonstrators Clash With Police in Nanjing," South China Morning Post (Online), 20 May 09.

[78] "Student Demonstrators Clash With Police in Nanjing," South China Morning Post (Online), 20 May 09.

[79] Austin Ramzy, "Above the Law? China's Bully Law-Enforcement Officers," Time (Online), 21 May 09; Yu Ge, "Road Map for Improving the Urban Management System," Oriental Morning Post (Online), 14 January 08 (Open Source Center, 10 June 09). The UN Human Rights Council's Review of China's Record: Process and Challenges, Staff Roundtable of the Congressional-Executive Commission on China, 16 January 09, Ms. Xiaorong Li, Senior Researcher, Institute for Philosophy and Public Policy, University of Maryland, Remarks During Question and Answer Period.

[80] Jeremy Chan, "China To Revise Policy Toward Peddlers," Wall Street Journal (Online), 11 August 09 ("China is preparing to give millions of street vendors legal status, a move aimed at creating jobs and curbing a rash of violent conflicts between the sellers and law-enforcement officials who police them.").

[81] "Legal Status To Be Granted to Street Vendors" [Liudong tanfan youwang hefa shengcun], Caijing, 22 July 09.

[82] Office of the UN High Commissioner for Human Rights (Online), Working Group on Arbitrary Detention Fact Sheet No. 26, May 2000, sec. IV; International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, arts. 12, 18, 19, 21, 22, and 27; Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, arts. 7, 10, 13, 14, 18, 19, and 21. Examples of the first category include individuals who are kept in detention after the completion of their prison sentences or despite an amnesty law applicable to them, or in violation of domestic law or relevant international instruments. The rights and freedoms protected under the second category include those in Articles 7, 10, 13, 14, 18, 19, and 21 of the UDHR and in Articles 12, 18, 19, 21, 22, and 27 of the ICCPR. The ICCPR provides that the deprivation of an individual's liberty is permissible only "on such grounds and in accordance with such procedure as are established by law," and that an individual must be promptly informed of the reasons for his detention and any charges against him or her.

[83] See, e.g., PRC Constitution, enacted and effective 4 December 82, amended 12 April 88, 29 March 93, 15 March 99, 14 March 04, arts. 35, 37, 41; PRC Criminal Procedure Law, enacted 1 July 79, amended 17 March 96, effective 1 January 97, art. 3; PRC Public Security Administration Punishment Law, enacted 28 August 05, effective 1 March 06, arts. 3, 9, 10, 16; PRC Legislation Law, enacted 15 March 00, effective 1 July 00, art. 8(v).

[84] Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, arts. 7, 10, 13, 14, 18, 19, and 21; International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, arts. 12, 18, 19, 21, 22, and 27. The rights and freedoms protected under the second category, i.e., "an individual is deprived of his liberty for having exercised rights guaranteed under the UDHR and ICCPR" include rights contained in arts. 7, 10, 13, 14, 18, 19, and 21 of the UDHR and in Articles 12, 18, 19, 21, 22, and 27 of the ICCPR.

[85] The CECC and others have also rendered *ruanjin* as arbitrary or unlawful "house arrest," "home confinement," or "soft arrest."

[86] UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, CAT/C/CHN/CO/4, 12 December 08, para. 14.

[87] CECC, 2008 Annual Report, 31 October 08, 35–36. See Flora Sapio, "*Shuanggui* and Extralegal Detention in China," 22 China Information, 26 (2008) for a detailed discussion of *shuanggui*.

[88] Jerome Cohen and Eva Pils, "The Disappearance of Gao Zhisheng," Wall Street Journal (Online), 9 February 09 (describing "a new and more effective 'punishment at home' that is less apparent to outsiders than a conventional prison sentence"); CECC, 2008 Annual Report, 31 October 08, 34.

[89] Zhao Ziyang, Prisoner of the State: The Secret Journal of Premier Zhao Ziyang, ed. Bao Pu, et al. (New York: Simon & Schuster, 2009), 84. See also China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Testimony of Jerome A. Cohen, Professor, New York University School of Law, Co-director, U.S.-Asia Law Institute. Zhao's top

aide, Bao Tong, who was the highest ranking Communist Party official to serve a prison sentence after the 1989 Tiananmen protests, has been subjected to unlawful home confinement and surveillance since his release from prison in 1996. See Jamil Anderlini, "Tea with the FT: Bao Tong," Financial Times (Online), 29 May 09; "Bao Tong: Beijing Should Explain How Charter '08 Violates the Law," AsiaNews.it (Online), 17 December 08.

[90] Ma Lin and Wang Wei, Chinese Human Rights Defenders (Online), "Charter 08 Signatories Launch 'Anti-Soft Detention Anti-Surveillance United Movement'" [Lingba xianzhang qianshu ren faqi "fan ruanjin fan jiankong lianhe da xingdong"], 20 June 09.

[91] Ibid.

[92] Ma Lin and Wang Wei, Chinese Human Rights Defenders (Online), "Charter 08 Signatories Launch 'Anti-Soft Detention Anti-Surveillance United Movement'" [Lingba xianzhang qianshu ren faqi "fan ruanjin fan jiankong lianhe da xingdong"], 20 June 09. By June 20, 158 individuals—the vast majority of whom also signed Charter 08—had signed onto the statement. The signatories include: Bao Tong, Teng Biao, Ai Weiwei, Jiang Qisheng, Ding Zilin, Pu Zhiqiang, Zhuo Duo, Zhang Zuhua, Yu Jie, Wan Yanhai, Li Heping, Li Fangping, Jiang Tianyong, and Li Xiongbing. Ibid.

[93] UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, CAT/C/CHN/CO/4, 12 December 08, para. 14. The 1992 United Nations Declaration on the Protection of all Persons from Enforced Disappearance provides that an "enforced disappearance" occurs when individuals are detained or abducted "or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law." UN General Assembly, Declaration on the Protection of all Persons from Enforced Disappearance, A/RES/47/133, 18 December 92. In February, during its Universal Periodic Review by the Working Group on the Universal Periodic Review at the UN Human Rights Council, the Chinese government rejected the recommendation that it should consider ratifying the International Convention for Protection of all Persons from Enforced Disappearance, adopted by the General Assembly in December 2006. UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, paras. 38, 84, 117. The delegations from Mexico and Argentina offered this recommendation.

[94] CECC, 2008 Annual Report, 31 October 08, 34.

[95] UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, paras. 56, 82, 117. During the UPR, the Czech Republic delegation called upon China to abolish the system of black jails. The Chinese delegation stated that there are no black jails in China, and rejected the recommendation. Song Hansong, from the Supreme People's Procuratorate, stated: "Our law clearly prohibits private detention facilities. There are no such things as 'black jails' in the country." Tim Johnson, "China Tells U.N. It Doesn't Censor or Abuse Human Rights," McClatchy Newspapers (Online), 9 February 09. See also "China's 'Black Jails' Uncovered," Al Jazeera (Online), 27 April 09. Al Jazeera reported that in response to its question about the use of "black jails" in China at a foreign ministry press conference, spokesperson Jiang Yu responded: "I don't know what prompted you to ask this question. Things like this don't exist in China. China is a country with the rule of law, and everything is handled according to the law."

[96] See, e.g., "China's 'Black Jails' Uncovered," Al Jazeera (Online), 27 April 09 (including accompanying video report by Melissa Chan); Andrew Jacobs, "Seeking Justice, Chinese Land in Secret Jails," New York Times (Online), 8 March 09; Chinese Human Rights Defenders (Online), "'Black Jails': China's Growing Network of Illegal and Secret Detention Facilities," 19 October 08; Xu Zhiyong, "A Visit to One of Beijing's 'Black Jails,'" translated by the Black and White Cat Blog, Black and White Cat Blog (Online), 13 October 08; Chinese Human Rights Defenders (Online), Secret Detention Facilities in Beijing Are Illegally Incarcerating Petitioners, 21 September 07. Liu Liu, "Xu Zhiyong: Fighting for Social Justice" [Xingxiazhangyi xu zhiyong], Economic Observer (Online), 13 November 08. The Economic Observer quoted Xu as saying that "'black jails' were a relatively new phenomenon; in the past, petitioners were held at custody and repatriation centers, but after such centers were abolished in 2003, 'black jails' emerged to take their place." "Xu Zhiyong: Destined To Fight For Social Justice," China Digital Times (Online), 13 November 08. While most reporting on "black jails" focuses on the "black jails" in Beijing, they exist throughout China. See Chinese Human Rights Defenders, China Human Rights Yearbook 2007–2008, 1 August 08, 51.

[97] Xu Zhiyong, "A Visit to One of Beijing's 'Black Jails,'" translated by the Black and White Cat Blog, Black and White Cat Blog (Online), 13 October 08.

[98] Jamil Anderlini, "Punished Supplicants," Financial Times (Online), 5 March 09.

[99] Chris Buckley, "Growing Opposition to China's 'Black Jails,'" Reuters (Online), 9 February 09. The non-governmental organization Chinese Human Rights Defenders (CHRD) reported in October 2008 that the black jail system "has become increasingly extensive and systematic." Chinese Human Rights Defenders (Online), "'Black Jails': China's Growing Network of Illegal and Secret Detention Facilities," 19 October 08. In June 2009, approximately 1,000 petitioners protested at the South Train Station in Beijing demanding the abolition of black jails. "Petitioners Initiate Large-Scale Gathering: Oppose Black Jails, Want Human Rights" [Fangmin faqi daguimo jihui fandui hei jianyu yao renquan], Radio Free Asia (Online), 21 June 09.

[100] Andrew Jacobs, "Seeking Justice, Chinese Land in Secret Jails," New York Times (Online), 8 March 09; Chinese Human Rights Defenders, China Human Rights Yearbook 2007–2008, 1 August 08, 51.

[101] Melissa Chan, "China's 'Black Jails' Uncovered," Al Jazeera (Online), 27 April 09.

[102] See, e.g., Jamil Anderlini, "Punished Supplicants," Financial Times (Online), 5 March 09 (observing that detention (and abuse) of petitioners in black jails is "at the very least tolerated

and usually facilitated by all levels of China's government and police"); Chinese Human Rights Defenders (Online), "'Black Jails': China's Growing Network of Illegal and Secret Detention Facilities," 19 October 08; Andrew Jacobs, "Seeking Justice, Chinese Land in Secret Jails," New York Times (Online), 9 March 09 (noting that the Beijing police "have done little to prevent such abuses").

[103] Chinese Human Rights Defenders Online, "'Black Jails': China's Growing Network of Illegal and Secret Detention Facilities," 19 October 08.

[104] See, e.g., Chinese Human Rights Defenders (Online), "Petitioner Detained and Beaten for Attempting To Appeal to Clinton," 27 February 2009; Chinese Human Rights Defenders (Online), "'Black Jails': China's Growing Network of Illegal and Secret Detention Facilities," 19 October 08.

[105] Chinese Human Rights Defenders (Online), "Petitioner Detained and Beaten for Attempting To Appeal to Clinton," 27 February 09. Petitioners and activists are particularly vulnerable to "disappearance" during the NPC and CPPCC annual March meetings (Two Sessions) held in Beijing and around other "sensitive" dates and events, such as visits from foreign officials. Chinese Human Rights Defenders reported that in advance of the Two Sessions in early March, an estimated "600 Shanghai petitioners were either put under residential surveillance or sent to black jails while 30 were administratively detained to prevent them from petitioning." Chinese Human Rights Defenders (Online), "Abuses Against Petitioners Contradict Message of 'Openness' at Annual Session of China's Legislature," 19 March 09. Although much of the reporting about black jails focuses on Beijing, black jails exist throughout China. Authorities in Sichuan province used black jails to silence parents of children killed in the May 2008 earthquake who sought to petition to call for an investigation into the cause of the collapse of the schools. According to Amnesty International, which conducted interviews with some of the parents whose children died in the earthquake, eight earthquake survivors, including an eight-year-old boy, were held in black jails for periods ranging from 1 to 21 days. Amnesty International (Online), "Justice Denied: Harassment of Sichuan Earthquake Survivors and Activists," May 2009, 10.

[106] See, e.g., Chris Buckley, "China Human Rights Record Stirs Struggle at Home," Reuters (Online), 8 February 09; Chris Buckley, "Growing Opposition to China's 'Black Jails,'" Reuters, reprinted in New York Times (Online), 9 February 09; Open Constitution Initiative (Online), "OCI Comment: Judicial Reform Can't Ignore 'Gray Prison' Under the Hidden System," 27 April 09; Chinese Human Rights Defenders, China Human Rights Yearbook 2007–2008, 1 August 08, 52.

[107] "Peixian Officials Admit They Have Legal Education Classes; Concern Regarding Safety of [Petitioner] Who Exposed the Inside Story Remains" [Peixian guanfang chengren you fazhi xuexi ban, jielu heimuzhe anquan reng kan you], Radio Free Asia (Online), 18 February 09.

[108] See, e.g., Chris Buckley, "China Human Rights Record Stirs Struggle at Home," Reuters (Online), 8 February 09.

[109] See, e.g., Chris Buckley, "China Human Rights Record Stirs Struggle at Home," Reuters (Online), 08 February 09; "'Black Jail' Plea From Hospital," Radio Free Asia (Online), 20 November 08 (Note that RFA incorrectly rendered Zheng's last name as "Guo").

[110] Chinese Human Rights Defenders (Online), "Abuses Against Petitioners Contradict Message of 'Openness' at Annual Session of China's Legislature (Appendix)," 19 March 09, para. 26. Another example of the use by authorities of "legal education classes" to arbitrarily detain citizens involved parents of children who died in the May 2008 Sichuan earthquake. One parent who sought justice for her child told Amnesty International that she was held in a "study class" for 10 days (after spending 7 days in two different black jails) during which she was instructed repeatedly that it was the earthquake that caused the collapse of the schools (and not shoddy construction). Amnesty International (Online), "Justice Denied: Harassment of Sichuan Earthquake Survivors and Activists," May 2009, 10.

[111] Zhai Fangye, "Cases in Which Petitioner Becomes Psychotic Was Preface to Weng'an Incident," 9 December 08 (Open Source Center, 31 March 09); Yang Tao, Open Constitution Initiative (Online), "OCI Comment: Judicial Reform Can't Ignore 'Gray Prison' Under the Hidden System," 27 April 09; Andrew Jacobs, "Complainers in China Hospitalized," New York Times (Online), 8 December 08.

[112] Andrew Jacobs, "Complainers in China Hospitalized," New York Times (Online), 8 December 08.

[113] Zhai Fangye, "Cases in Which Petitioner Becomes Psychotic Was Preface to Weng'an Incident," 9 December 08 (Open Source Center, 31 March 09); Andrew Jacobs, "Complainers in China Hospitalized," New York Times (Online), 8 December 08. In its December 2008 report on China's compliance with the UN Convention against Torture, the UN Committee against Torture expressed concern that Chinese authorities had detained "some people in psychiatric hospitals for reasons other than medical." See UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, CAT/C/CHN/CO/4, 12 December 08, para. 35. In June 2009, Radio Free Asia reported that throughout China, local authorities forcibly send petitioners to psychiatric hospitals in order to prevent them from petitioning. See "Inside Story on Wuhan Petitioner Sent to Psychiatric Hospital and Tortured" [Wuhan fangmin bei song jingshenbingyuan zao cuican neimu], Radio Free Asia (Online), 12 June 09. The issue of governmental authorities forcibly detaining in psychiatric hospitals petitioners who do not suffer from mental illness gained more attention in April, after a professor of forensic psychiatry at Peking University, Sun Dongdong, stated in an interview with China Newsweek that 99 percent of all persistent ("professional") petitioners were mentally ill. His comment prompted extensive virtual and "live" protests and criticism; the controversy became so heated that Professor Sun was pressured to issue an apology. Stephanie Wang, "China's Elite Stirs Up 'Paranoid' Petitioners," Asia Times (Online), 9 May 09.

[114] Andrew Jacobs, "Complainers in China Hospitalized," New York Times (Online), 8 December 08 (citing Robin Munro); Su Zhi, Chinese Human Rights Defenders (Online), "Psychiatric Hospitals Have Become a Gulag Archipelago With Chinese Characteristics" [Jingshenbing yuan chengwei ju you zhongguo tese de gulage qundao], 17 May 09.

[115] Xiao Zhi, Chinese Human Rights Defenders (Online), "Psychiatric Hospitals Have Become a Gulag Archipelago With Chinese Characteristics" [Jingshenbingyuan chengwei juyou zhongguo tese de gulage qundao], 17 May 09. The writer also warns that as the call for the abolition of reeducation through labor gains momentum, psychiatric hospitals will be used more and more frequently to arbitrarily detain citizens.

[116] "The Story of Yang Jia's Mother," translated by and reprinted in ChinaGeeks Blog (Online), 2 April 09.

[117] See, e.g., Andrew Jacobs, "Complainers in China Hospitalized," New York Times (Online), 8 December 08; Bill Savadove, "Killer's Mother in Mental Hospital," South China Morning Post (Online), 11 November 08; Rebecca MacKinnon, "Ai Weiwei: On Taking Individual Responsibility," RConversation (Online), 23 January 09; "The Story of Yang Jia's Mother," translated by and reprinted in ChinaGeeks Blog (Online), 2 April 09.

[118] Bill Savadove, "Killer's Mother in Mental Hospital," South China Morning Post (Online), 11 November 08; Simon Elegant, "Yang Jia: Stranger Than Fiction," The China Blog, Time (Online), 13 November 09; Rebecca MacKinnon, "Ai Weiwei: On Taking Individual Responsibility," RConversation, (Online), 23 January 09; Maureen Fan, "Confessed Police Killer Lionized by Thousands in China," Washington Post (Online), 14 November 08 (stating that Yang Jia's mother reportedly claimed that "police had locked her up and forced her to hire a government lawyer").

[119] Bill Savadove, "Killer's Mother in Mental Hospital," South China Morning Post (Online), 11 November 08; Eva Pils, "Yang Jia and China's Unpopular Criminal Justice System," China Rights Forum, No. 1, 2009, 59, 61. According to Wang's own account of her disappearance, authorities at the hospital kept her door locked at all times and prevented Wang from speaking with anyone (other than her guards and "doctors") or from contacting anyone outside the hospital. Staff at the hospital attempted to force Wang to take medicine once, but she apparently was successful in thwarting their efforts (although the translation is not entirely clear on this point). At any rate, after that initial attempted forced "treatment," the staff did not try to give Wang medicine again. See "The Story of Yang Jia's Mother," translated by and reprinted in ChinaGeeks Blog (Online), 2 April 09.

[120] "The Story of Yang Jia's Mother," translated by and reprinted in ChinaGeeks Blog (Online), 2 April 09.

[121] "Deng Yujiao Tells Her Story," EastSouthWestNorth Blog (Online), 26 May 09 (translation of account published in Southern Metropolitan Daily).

[122] See, e.g., Wang Yan, "The Hands That Pull the Lever," NewsChina, 5 July 09, 15; Raymond Li, "Web of Support," South China Morning Post (Online), 10 June 09; Grace Ng, "Rape-Bid Official's Killer Goes Free," Straits Times Online, 17 June 09, (Open Source Center, 17 June 09).

[123] Xiao Zhi, Chinese Human Rights Defenders (Online), "Psychiatric Hospitals Have Become a Gulag Archipelago With Chinese Characteristics" [Jingshenbingyuan chengwei juyou zhongguo tese de gulage qundao], 17 May 09.

[124] Jerome A. Cohen and Eva Pils, "The Disappearance of Gao Zhisheng," Wall Street Journal (Online), 9 February 09; Jerome A. Cohen, "Beijing Must Reveal Fate of Human Rights Lawyer," South China Morning Post (Online), 19 March 09.

[125] See, e.g., Gao's record of detention searchable through the CECC's Political Prisoner Database; Jerome A. Cohen, "Beijing Must Reveal Fate of Human Rights Lawyer," South China Morning Post (Online), 19 March 09; China Human Rights Lawyers Concern Group (Online), "Press Invitation: Demand Information About Beijing Human Rights Lawyer Gao Zhisheng's Whereabouts" [Caifang tongzhi: zaici yaoqiu jiaodai Beijing weiquan lushi Gao Zhisheng xialuo], 15 June 09; Human Rights in China (Online), "Wife of Abducted Rights Defense Lawyer Gao Zhisheng Requests Urgent Help From U.S. Congress in Open Letter," 23 April 09.

[126] Jerome A. Cohen, "Beijing Must Reveal Fate of Human Rights Lawyer," South China Morning Post (Online), 19 March 09; Human Rights in China (Online), "Wife of Abducted Rights Defense Lawyer Gao Zhisheng Requests Urgent Help From U.S. Congress in Open Letter," 23 April 09.

[127] See CECC, 2008 Annual Report, 31 October 08, 37–38. The suspended sentence meant that Gao did not serve prison time after the court sentenced him. It also meant that Gao would be closely monitored and surveilled for five years, and that if he did anything that displeased his guards, he could end up in prison to serve out his three-year sentence. In March 2009, Jerome Cohen, professor at New York University Law School and a leading American expert on Chinese law, described Gao's suspended sentence of "home surveillance" as "harsher than prison, not only for Gao but also for his wife and daughter." Jerome A. Cohen, "Beijing Must Reveal Fate of Human Rights Lawyer," South China Morning Post (Online), 19 March 09.

[128] See Gao's record of detention searchable through the CECC's Political Prisoner Database; Human Rights in China (Online), "Torture Account by Missing Rights Defense Lawyer Gao Zhisheng," 8 February 09.

[129] Jerome A. Cohen and Eva Pils, "The Disappearance of Gao Zhisheng," Wall Street Journal (Online), 8 February 09.

[130] Human Rights in China (Online), "Torture Account by Missing Rights Defense Lawyer Gao Zhisheng," 8 February 09 (attaching PDF of Gao's account titled "Dark Night, Dark Hood, and Kidnapping by Dark Mafia"); ChinaAid (Online), "A Letter From the Twenty-first Century Dungeon—Over Fifty Days of Endless Inhumane Tortures in the Hands of the Chinese Government," translated by ChinaAid (Online), 18 February 09 (written on 28 November 07 and authorized for release to international community on 9 February 09.) The Web sites of HRIC and

ChinaAid contain different English translations of the same Chinese language account written by Gao Zhisheng.

[131] Human Rights in China (Online), "Torture Account by Missing Rights Defense Lawyer Gao Zhisheng," 8 February 09; ChinaAid (Online), "A Letter From the Twenty-first Century Dungeon—Over Fifty Days of Endless Inhumane Tortures in the Hands of the Chinese Government," translated by ChinaAid, 18 February 09; Jerome A. Cohen, "Beijing Must Reveal Fate of Human Rights Lawyer," South China Morning Post (Online), 19 March 09.

[132] Human Rights in China (Online), "Wife of Abducted Rights Defense Lawyer Gao Zhisheng Requests Urgent Help From U.S. Congress in Open Letter," 23 April 09.

[133] Josephine Ma, "Dissident's Wife Reveals Family's Harrowing Escape to the West," South China Morning Post (Online), 14 March 09; "Chinese Dissident Lawyer's Family Defects," Radio Free Asia (Online), 12 March 09; Bill Schiller, "Fears Grow Over Chinese Lawyer's Disappearance," Toronto Star (Online), 13 April 09.

[134] "PRC FM Spokesman Denies China Persecuting Family of Human Rights Lawyer," Agence France-Presse (Online), 17 March 09 (Open Source Center, 17 March 09).

[135] Human Rights in China (Online), "Wife of Abducted Rights Defense Lawyer Gao Zhisheng Requests Urgent Help From U.S. Congress in Open Letter," 23 April 09.

[136] Official correspondence on file with the Commission.

[137] "Lawyer Gao Zhisheng Missing for Over Four Months; Older Brother Goes to Beijing To Look for Younger Brother With No Results; Police Do Not Allow Him To Enter His Home" [Gao zhisheng lushi shizong 4 yue yu dage fu jing xun di wuguo jingfang bu zhun jin jiamen], Radio Free Asia (Online), 17 June 09.

[138] Ibid.

[139] Ibid.

[140] Ibid.

[141] China Aid Association (Online), "Gao Zhisheng Petition Delivered to Chinese Embassy, U.S. State Department and CECC," 16 July 09. For information about other advocacy efforts, see, e.g., China Human Rights Lawyers Concern Group, "Press Invitation: Demand Information About Beijing Human Rights Lawyer Gao Zhisheng's Whereabouts," 15 June 09; Jerome A. Cohen, "Beijing Must Reveal Fate of Human Rights Lawyer," South China Morning Post (Online), 19 March 09; Jeff Storey, "New York Lawyers Urge Chinese To Investigate Case of Missing Human Rights Attorney," New York Law Journal, reprinted in Law.Com (Online), 23 April 09.

[142] "An Update on Gao Zhisheng," Siweiluozi Blog (Online), 3 September 09; Teng Biao on Gao Zhisheng, Twitter (Online), 2 September 09.

[143] CECC, 2008 Annual Report, 31 October 08, 35; Flora Sapio, "*Shuanggui* and Extralegal Detention in China," 22 China Information (Online), 7, 12 (2008).

[144] CECC, 2008 Annual Report, 31 October 08, 35.

[145] Ibid.

[146] UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, CAT/C/CHN/CO/4, 12 December 08, para. 14.

[147] "Guangdong Cases Uncover Years of Abuse, Sources Say," South China Morning Post (Online), 16 April 09; "Supreme Court Vice President Huang Songyou Is Placed Under 'Double Stipulations,'" Southern Metropolitan Daily, 29 October 08 (Open Source Center, 29 October 08). In August, Huang Songyou was dismissed from all of his official positions and stripped of his Communist Party membership. His case was transferred to the procuratorate for criminal prosecution on corruption charges. See "Party Sacks Ex-Supreme Court VP Over Corruption," Xinhua (Online), 21 August 08. In the first half of 2009, Zheng Shaodong, former Vice Minister of Public Security and Director of the Criminal Investigation Bureau of Guangdong, and Chen Shaoji, Chairman of the Guangdong Committee of the Chinese People's Political Consultative Conference and former head of Guangdong's Public Security Department, were also placed under *shuanggui*. "Guangdong Cases Uncover Years of Abuse, Sources Say," South China Morning Post (Online), 16 April 09. Zheng and Chen's investigation were prompted by their alleged links to billionaire Huang Guangyu (Wong Kwong-yu), founder of Gome Appliances, who was placed under investigation in November for suspected securities fraud. See, e.g., "Former Top Law Officials in Graft Probe," South China Morning Post (Online), 16 April 09; "Shenzhen Graft Probe Hits Three More Officials," South China Morning Post (Online), 9 June 09; He Xin, Luo Jieqi, and Wang Heyan, "Shenzhen Mayor Bows Out on Bribery Probe," Caijing (Online), 2 July 09.

[148] "Shenzhen Graft Probe Hits Three More Officials," South China Morning Post (Online), 9 June 09; He Xin, Luo Jieqi and Wang Heyan, "Shenzhen Mayor Bows Out on Bribery Probe," Caijing (Online), 2 July 09; "Beijing-Backed Party Boss Too Powerful for Guangdong Clique," South China Morning Post (Online), 17 April 09.

[149] He Xin, Luo Jieqi, and Wang Heyan, "Shenzhen Mayor Bows Out on Bribery Probe," Caijing (Online), 2 July 09.

[150] "Shenzhen Graft Probe Hits Three More Officials," South China Morning Post (Online), 9 June 09.

[151] Fiona Tam, "Former Justice Chief Had His Own 'Fort Knox,'" South China Morning Post (Online), 4 September 09.

[152] CECC, 2007 Annual Report, 10 October 07, 39; Dui Hua Foundation, Reference Materials on China's Criminal Justice System, Vol. 2, June 2009, iv; CECC, 2008 Annual Report, 31 October 08, 37; Chinese Human Rights Defenders (Online), "Re-Education Through Labor Abuses Continue Unabated: Overhaul Long Overdue," 4 February 09, 4.

[153] CECC, 2008 Annual Report, 31 October 08, 37; Chinese Human Rights Defenders (Online), "Re-Education Through Labor Abuses Continue Unabated: Overhaul Long Overdue," 4 February 09, 4.

[154] Fu Hualing, "Dissolving Laojiao," China Rights Forum, No. 1, 2009, 55.

[155] UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, para. 66.
[156] CECC, 2008 Annual Report, 31 October 08, 37.
[157] Dui Hua Foundation, Reference Materials on China's Criminal Justice System, Vol. 2, June 2009, v–vi. Professor Fu Hualing also notes that with the handling of drug addicts in separate drug treatment centers, the number of RTL inmates has decreased substantially. See Fu Hualing, "Dissolving Laojiao," China Rights Forum, No. 1, 2009, 57.
[158] Chinese Human Rights Defenders (Online), "Re-Education Through Labor Abuses Continue Unabated: Overhaul Long Overdue," 4 February 09, 3, 8, 13.
[159] Chinese Human Rights Defenders (Online), "Re-Education Through Labor Abuses Continue Unabated: Overhaul Long Overdue," 4 February 09, 16. One of the former RTL inmates who was interviewed for CHRD's report, Luo Hangshan, spent three years in an RTL center in Liaoning province. Luo reported that beatings were common and that he knew of seven or eight inmates who were beaten to death, a figure that did not include those who committed suicide because they could no longer stand the abuse. Luo said that all kinds of torture were common, including forcing the inmates to eat feces and drink urine, which the guards called eating fried dough sticks and drinking wine. Ibid., 58–59. In its December 2008 report, the UN Committee against Torture (UNCAT) urged China, as it had in the past, to "immediately abolish all forms of administrative detention." UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, CAT/C/CHN/CO/4, 12 December 08, para. 13. The Committee also expressed concern about allegations of torture and abuse in RTL centers, and the government's failure to investigate such allegations. Ibid., para. 14.
[160] Chinese Human Rights Defenders (Online), "Re-Education Through Labor Abuses Continue Unabated: Overhaul Long Overdue," 4 February 09, 11–12; CECC, 2006 Annual Report, 20 September 06, 53; Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09, sec. 1.d; Fu Hualing, "Dissolving Laojiao," China Rights Forum, No.1, 2009, 54.
[161] Chinese Human Rights Defenders (Online), "Re-Education Through Labor Abuses Continue Unabated: Overhaul Long Overdue," 4 February 09, 11–12; CECC, 2006 Annual Report, 20 September 06, 53. The UN Working Group on Arbitrary Detention observed after its 2004 visit to China that ALL review of RTL decisions was "of very little value." See UN Working Group on Arbitrary Detention, Report of the Working Group on Arbitrary Detention, Mission to China, Addendum, 29 December 04, paras. 56, 73.
[162] Chinese Human Rights Defenders (Online), "Re-Education Through Labor Abuses Continue Unabated: Overhaul Long Overdue," 4 February 09, 12.
[163] Chinese Human Rights Defenders (Online), "Re-Education Through Labor Abuses Continue Unabated: Overhaul Long Overdue," 4 February 09, 61. Jin Hanyan, a petitioner who spent one year and 10 months at the Hubei Women's RTL Center, told CHRD that the detainees were not allowed to have any visitors (including family), and thus she (and other detainees) could not meet with lawyers or others who might have helped them to pursue legal remedies. Jin wrote out a petition for administrative reconsideration herself, but later learned that the staff at the RTL center had kept it and not forwarded it to the relevant authorities. Jin stated that other detainees had experienced similar treatment. Ibid., 53. See also China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement submitted by Jerome A. Cohen, Professor, New York University School of Law, Co-director, U.S.-Asia Law Institute (stating that generally a lawyer's only possible role in reeducation through labor proceedings "is to assist people who have already been sent off to RETL confinement with an appeal for judicial review in the relatively few cases when the detainees are able to contact and hire counsel").
[164] See CECC, 2008 Annual Report, 31 October 08, 36–37; Fu Hualing, "Dissolving Laojiao," China Rights Forum, No. 1, 2009, 54; Dui Hua Foundation, Reference Materials on China's Criminal Justice System, Vol. 2, June 2009, iv–v.
[165] Xiaorong Li and Zhang Zuhua, Charter 08 [Lingba xianzhang], (Hong Kong: Open Books, 2009), 319 (noting that Charter 08 had garnered more than 8,400 signatures by mid-April 2009, approximately 80 percent from people residing in mainland China).
[166] "China's Charter 08," translated by Perry Link, New York Review of Books (Online), 15 January 09. During the UN Human Rights Council Universal Periodic Review of China in February, several delegations raised concerns about administrative detention in China and called upon the Chinese government to abolish RTL and all other forms of administrative detention. See UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, paras. 43, 82, 92. The delegations that recommended China abolish all forms of administrative detention included Germany, Sweden, and the Czech Republic. The Chinese delegation rejected the recommendations that it abolish RTL and other forms of administrative detention. Ibid., para. 117.
[167] UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, CAT/C/CHN/CO/4, 12 December 08, para. 11.
[168] UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, CAT/C/CHN/CO/4, 12 December 08, paras. 11, 33. In addition, the Committee recommended that in order to comply with the definition of torture in the Convention, China must include the infliction of severe mental pain or suffering in its definition of torture, and ensure that any person acting in "an official capacity or with the consent or acquiescence of a public official can be prosecuted for torture." Ibid., para. 33. See also The UN Human Rights Council's Review of China's Record: Process and Challenges, Staff Roundtable of the Congressional-Executive Commission on China, 16 January 09, Testimony of Felice Gaer, Director, The Jacob

Laustein Institute for the Advancement of Human Rights, Chair, U.S. Commission on International Religious Freedom ("the official Chinese definition [of torture] does not meet the UN definition"). The panelists participating in the roundtable agreed that China's definition of torture was too narrow; among other things, it does not account for mental or psychological abuse, and applies only to law enforcement officers or other officials within the criminal system, thereby excluding from criminal liability other government officials (or persons working under their direction) who engage in violence and torture, such as urban management officers (*chengguan*), guards in reeducation through labor centers, black jail guards, hired "thugs," etc.

[169] UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, CAT/C/CHN/CO/4, 12 December 08, para. 33.

[170] Andrew Jacobs, "China Assails UN Report That Alleges Torture," New York Times, reprinted in International Herald Tribune (Online), 24 November 08. During the February 2009 session of the UN Human Rights Council's Universal Periodic Review of the Chinese Government's human rights record, several delegations raised the issue of torture and abuse in custody. China rejected the recommendation that it "take immediate measures to implement the recommendations" made by the Committee against Torture after its review of China in November 2008. See UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, paras. 28, 117.

[171] UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, CAT/C/CHN/CO/4, 12 December 08, para. 12.

[172] Kent Ewing, "Chinese Prisons: Horror and Reform," Asia Times (Online), 24 March 09. The first case that came to light in 2009 involved the death in February of 24-year-old Li Qiaoming at a detention center in Yunnan, which was initially explained by officials to have resulted from fatal injuries sustained during a game of "hide-and-seek" (*"duo maomao"*) with other inmates. The media and blogosphere spread news of the case; Internet users expressed anger over the death and the unconvincing explanation given by the officials, and called for an investigation. Amnesty International (Online), "China's Detention System Under Pressure After Inmate Deaths," 20 March 09; Kathrin Hille, "China To Address Torture of Prisoners," Financial Times (Online), 3 April 09. After the investigation, officials stated that Li, in fact, had been beaten to death by "jail bullies" (*laotou yuba*). More reports of other suspicious deaths in custody followed. In March, for example, the Chinese media reported the death of a 50-year-old man in a detention center in Jiangxi province; officials initially explained the cause of death as the result of a "nightmare." Zhu Zhe, "Preventing Custody Deaths a Top Priority," China Daily (Online), 4 April 09.

[173] See, e.g., "China Vows To Curb Custody Deaths," Xinhua, reprinted in People's Daily (Online), 4 April 09; Amnesty International (Online), "China's Detention System Under Pressure After Inmate Deaths," 20 March 09.

[174] Amnesty International (Online), "China's Detention System Under Pressure After Inmate Deaths," 20 March 09. If convicted and sentenced to a prison term by a court, a defendant is then transferred to a prison (*jianyu*).

[175] Amnesty International (Online), "China's Detention System Under Pressure After Inmate Deaths," 20 March 09; Kathrin Hille, "China To Address Torture of Prisoners," Financial Times (Online), 3 April 09.

[176] See, e.g., Kathrin Hille, "China To Address Torture of Prisoners," Financial Times (Online), 3 April 09; Amnesty International (Online), "China's Detention System Under Pressure After Inmate Deaths," 20 March 09; "Investigation Into Prison Deaths Launched," Agence France-Presse, reprinted in South China Morning Post (Online), 2 April 09.

[177] "Top Prosecuting Body Starts Jail Safety Drive After Inmate Deaths," South China Morning Post (Online), 21 April 09.

[178] "Top Prosecuting Body Starts Jail Safety Drive After Inmate Deaths," South China Morning Post (Online), 21 April 09.

[179] "Official: Misconduct in Chinese Prisons Doubles," Xinhua (Online), 16 July 09.

[180] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09.

[181] Ibid.

[182] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09. HRAP does not explain what "physical barrier" means.

[183] Chinese Human Rights Defenders (Online), "Re-Education Through Labor Abuses Continue Unabated: Overhaul Long Overdue," 4 February 09, 3, 16.

[184] CECC, 2008 Annual Report, 31 October 08, 37; UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, CAT/C/CHN/CO/4, 12 December 08, para. 12.

[185] Human Rights in China (Online), "Case Update: Elderly Activist Shuang Shuying Released; Reports Abuses in Prison," 13 February 09. In February 2009, rights activist Shuang Shuying, aged 77, completed a two-year sentence at Beijing Women's Prison for hitting a police car with her cane. According to an interview Shuang gave to the non-governmental organization Human Rights in China shortly after her release, she was beaten by both prison guards and other inmates and also subjected to electric shock. Prison guards ordered one of Shuang's cellmates to beat her, and threatened Shuang that her six cellmates would take turns tormenting her until she was "tormented to death." The guards warned Shuang that if she told her son about the beatings, they would deny her family visits and put her in solitary confinement. Ibid.

[186] See, e.g., PRC Prison Law, adopted and effective on December 29, 1994, art. 58 (maximum term for solitary confinement is 15 days); Commission on Human Rights, Civil and Political Right, Including the Question of Torture and Detention, Report of the Special Rapporteur on

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Mission to China, E/CN.4/2006,6/Add. 6, 10 March 06, para. 45 (describing "prolonged solitary confinement" as a method of torture).

[187] Times Wang, "Latest Visit With Dad," posted on Wangbingzhang.com, 11 July 09; Email correspondence with Ti-Anna Wang on file with the Commission, 29 July 09. For more information about Wang Bingzhang, see his record of detention, which is searchable through the CECC's Political Prisoner Database.

[188] Email Correspondence With Ti-Anna Wang, 31 July 09 (on file with the Commission). Wang Bingzhang's son, Times Wang, reported that during a July visit with his father Wang told him that he was in relatively good health (he suffers from phlebitis and bad allergies, among other ailments) and that he was getting along well with the guards. One of the guards at the prison told Times Wang that the warden wanted Times to know that the prison was aware of the Wang children's advocacy efforts on behalf of their father, and that he hoped they would be "accurate and truthful" in their assessment of their father's situation. Times Wang, "Latest Visit With Dad," posted on Wangbingzhang.com, 11 July 09. Dr. Wang Bingzhang was included on a list of political prisoners Speaker of the House Nancy Pelosi presented to President Hu Jintao during her May trip to China. Speaker Nancy Pelosi, "Pelosi Floor Speech on Tiananmen Square Resolution," Speaker Pelosi's Web Site (Online), 3 June 09.

[189] "Official: Misconduct in Chinese Prisons Doubles," Xinhua (Online), 16 July 09.

[190] Ibid.

[191] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09, sec. 1.c.

[192] Chinese Human Rights Defenders (Online), "Re-Education Through Labor Abuses Continue Unabated: Overhaul Long Overdue," 4 February 09, 3, 16.

[193] Chinese Human Rights Defenders (Online), "Shandong Human Rights Defender Chen Guangcheng's Illness Worsens in Prison, Family Not Allowed To Visit" [Shandong weiquan renshi chen guangcheng zai yu zhong bingqing ehua, bu rang jiaren huijian], 24 May 09; Jerome A. Cohen, "Fine Words Lack Specifics," South China Morning Post, reprinted in Council on Foreign Relations (Online), 2 May 09 (noting that Chen is "deteriorating rapidly").

[194] Chinese Human Rights Defenders (Online), "Shandong Human Rights Defender Chen Guangcheng's Illness Worsens in Prison, Family Not Allowed To Visit" [Shandong weiquan renshi chen guangcheng zai yu zhong bingqing ehua, bu rang jiaren huijian], 24 May 09.

[195] "Dissidents Denied Family Visits," Radio Free Asia (Online), 28 January 09.

[196] "Zeng Jinyan: Concerns for Health of Hu Jia in Prison," Zeng Jingyan's Blog, translated by and reprinted in China Digital Times (Online), 9 May 09.

[197] Chinese Human Rights Defenders (Online), "Huang Qi Reportedly Ill in Detention, Denied Access to Medical Attention," 28 July 09. During a meeting in late May with his lawyer Mo Shaoping, Huang stated that he suffered from headaches and insomnia and an irregular heartbeat, and that four lumps had appeared on his chest and stomach over the past several months. As of late July, Huang had not received any medical attention for his ailments. Ibid.

[198] CECC, 2008 Annual Report, 31 October 08, 38.

[199] "Ignoring Facts and Law as a Concession to Popular Will Actually Contravenes the Will of the People" [Weile qianjiu minyi bugu shishi he falu cai shi zhenzheng weibei minyi], China Youth Daily (Online), 18 June 09; "Thirty Years After the Restoration of the Lawyers System" [Lushi zhidu huifu 30 nian], Democracy and Legal System Magazine, reprinted in Sina, 30 October 08.

[200] Ibid.

[201] Jerome A. Cohen, "Key Decisions," South China Morning Post (Online), 3 September 09. Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09, sec. 1.d.

[202] UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, CAT/C/CHN/CO/4, 12 December 08, para. 11. During the Universal Periodic Review of China in February, the Chinese government rejected the recommendation that China "ensure every detainee has the right to regularly see visitors and has permanent access to legal counsel and effective complaint mechanisms." See UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, paras. 43(b), 117. Germany made the recommendation.

[203] CECC, 2008 Annual Report, 31 October 08, 38.

[204] CECC, 2008 Annual Report, 31 October 08, 38. Because the revised Lawyers Law conflicts with several provisions in the Criminal Procedure Law (CPL) governing lawyers' rights in criminal cases with respect to the "three difficulties," it was unclear how these conflicts would be resolved once the revised Lawyers Law took effect, despite a clear pronouncement from the Legislative Affairs Commission (*fagongwei*) of the National People's Congress Standing Committee that in the case of a conflict, the more recent law (i.e., the Lawyers Law) takes precedence over the earlier law (i.e., CPL). See ibid., 38–39; "New Lawyers Law Is 'One Year Old': The 'Three Difficulties' Have Not Yet Been Resolved" [Xin lushifa "zhousui": "sannan" reng wei jiejue], Southern Metropolitan Daily (Online), 4 June 09. Some lawyers hold the view that the fundamental issue is not whether the Lawyers Law is being implemented effectively, but whether it is being implemented at all. See "Ignoring Facts and Law as a Concession to Popular Will Actually Contravenes the Will of the People" [Weile qianjiu minyi bugu shishi he falu cai shi zhenzheng weibei minyi], China Youth Daily (Online), 18 June 09.

[205] PRC Law on Lawyers, enacted 15 May 96, amended 28 October 07, effective 1 June 08, art. 33; PRC Criminal Procedure Law, enacted 1 July 79, amended 17 March 96, art. 96. One lawyer reported that prior to the revised Lawyers Law, permission needed to be obtained from "relevant departments" every time a lawyer wanted to meet with his detained client during the

investigation and review for indictment stages, even in non-state secrets cases. See "One Year Anniversary of Implementation of the [Revised] Lawyers Law: Lawyers Discuss the Lawyers Law and Protection of Their Professional Rights" [Lushifa shishi yi zhounian, lushi tan lushifa yu zhiye quanli baozhang], Xinhua (Online), 4 June 09. Another lawyer described his experience with a local regulation in Sichuan that requires a lawyer to get approval from "the relevant responsible person" at the investigating agency before he or she can meet with a detained client. Li Liang and Zhu Yuchen, "New Lawyers Law 'Annual Inspection': Difficulties With Lawyers' Rights Are Making Steady Improvement" [Xin lushifa "nian jian": Lushi quanli jiannan zhong wenbu xiangqian], Legal Daily (Online), 4 June 09. "State secrets" is often invoked to prevent lawyers from meeting with their clients, particularly in politically sensitive cases. See Jerome A. Cohen, "Prisoner of the System," South China Morning Post (Online), 21 July 09; Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09, sec. 1.e.

[206] PRC Law on Lawyers, enacted 15 May 96, amended 28 October 07, effective 1 June 08, art. 33; PRC Criminal Procedure Law, enacted 1 July 79, amended 17 March 96, art. 96.

[207] CECC Staff Interviews. A Beijing lawyer told CECC that for "ordinary" (*putongde*) cases, access to detained clients was good, but for state secrets cases, permission to meet with detained client was still necessary. See also "One Year Anniversary of Implementation of the [Revised] Lawyers Law: Lawyers Discuss the Lawyers Law and Protection of Their Professional Rights" [Lushifa shishi yi zhounian, lushi tan lushifa yu zhiye quanli baozhang], Xinhua (Online), 4 June 09. But the Legal Daily reported that relevant personnel in the procuratorate of an unnamed district in Beijing said that in practice, they were not implementing the "three certificates" provision of the revised Lawyers Law. See Li Liang and Zhu Yuchen, "New Lawyers Law 'Annual Inspection': Difficulties With Lawyers' Rights Are Making Steady Improvement" [Xin lushifa "nian jian": Lushi quanli jiannan zhong wenbu xiangqian], Legal Daily (Online), 4 June 09.

[208] CECC Staff Interviews.

[209] Ibid.

[210] Ibid.

[211] CECC Staff Interviews; Li Liang and Zhu Yuchen, "New Lawyers Law 'Annual Inspection': Difficulties With Lawyers' Rights Are Making Steady Improvement" [Xin lushifa "nian jian": Lushi quanli jiannan zhong wenbu xiangqian], Legal Daily (Online), 4 June 09; See also "One Year Anniversary of Implementation of the [Revised] Lawyers Law: Lawyers Discuss the Lawyers Law and Protection of Their Professional Rights" [Lushifa shishi yi zhounian, lushi tan lushifa yu zhiye quanli baozhang], Xinhua (Online), 4 June 09.

[212] "New Lawyers Law Is 'One Year Old': The 'Three Difficulties' Have Not Yet Been Resolved" [Xin lushifa 'zhousui': 'sannan' reng wei jiejue], Southern Metropolitan Daily (Online), 4 June 09.

[213] "New Lawyers Law Is 'One Year Old': The 'Three Difficulties' Have Not Yet Been Resolved" [Xin lushifa 'zhousui': 'sannan' reng wei jiejue], Southern Metropolitan Daily (Online), 4 June 09. According to Professor Chen Guangzhong, the renowned criminal procedure professor from Beijing's China University of Politics and Law, the basic problem is the lack of specific regulations governing the procedure for implementing the improved rights of lawyers contained in the revised Lawyers Law, and, as a result, the law is not being implemented consistently. Ibid. Two lawyers interviewed by Xinhua also believed that one of the biggest obstacles to the realization of the expanded rights under the revised Lawyers Law is the lack of an implementing mechanism or structure, which would include detailed implementing measures and the establishment of punishments for those who violate lawyers professional rights. See "One Year Anniversary of Implementation of the [Revised] Lawyers Law: Lawyers Discuss the Lawyers Law and Protection of Their Professional Rights" [Lushifa shishi yi zhounian, lushi tan lushifa yu zhiye quanli baozhang], Xinhua (Online), 4 June 09. A legal scholar from China University of Politics and Law writing in the July 2009 issue of Chinese Lawyer magazine also observed that without a corresponding implementation mechanism there was no way to "operationalize" the new Lawyers Law. See Wang Jinxi, "A Look Back: 'Lawyers Law' Revision A Year On" [Huimou "lushifa" xiuding hou yinian], Chinese Lawyer, July 2009, 13, 15.

[214] See, e.g., "One Year Anniversary of Implementation of the [Revised] Lawyers Law: Lawyers Discuss the Lawyers Law and Protection of Their Professional Rights" [Lushifa shishi yi zhounian, lushi tan lushifa yu zhiye quanli baozhang], Xinhua (Online), 4 June 09. Liu Renwen and Zhou Chenjie, "China's Criminal Rule of Law in 2008" [2008 nian zhongguo xingshi fazhi], in Annual Report on China's Rule of Law No. 7, 2009 [Zhongguo fazhi fazhan baogao no. 7 (2009)], (Beijing: Social Sciences Academic Press, 2009), 207; Qin Xudong, "Judicial Reform: A New Round," Caijing (Online), 24 January 09; "New Lawyers Law Is 'One Year Old': The 'Three Difficulties' Have Not Yet Been Resolved" [Xin lushifa 'zhousui': 'sannan' reng wei jiejue], Southern Metropolitan Daily (Online), 4 June 09; CECC Staff Interviews. Staff from a procuratorate and detention center in an unnamed district in Beijing told the Legal Daily that they would strictly implement the CPL (and not the Lawyers Law) with respect to attorney-client meetings. Li Liang and Zhu Yuchen, "New Lawyers Law 'Annual Inspection': Difficulties With Lawyers' Rights Are Making Steady Improvement" [Xin lushifa "nian jian": Lushi quanli jiannan zhong wenbu xiangqian], Legal Daily (Online), 4 June 09.

[215] Liu Renwen and Zhou Chenjie, "China's Criminal Rule of Law in 2008" [2008 nian zhongguo xingshi fazhi], in Annual Report on China's Rule of Law No. 7, 2009 [Zhongguo fazhi fazhan baogao no. 7 (2009)], (Beijing: Social Sciences Academic Press, 2009), 207; "New Lawyers Law Is 'One Year Old': The 'Three Difficulties' Have Not Yet Been Resolved" [Xin lushifa 'zhousui': 'sannan' reng wei jiejue], 4 June 09.

[216] "New Lawyers Law Is 'One Year Old': The 'Three Difficulties' Have Not Yet Been Resolved" [Xin lushifa 'zhousui': 'sannan' reng wei jiejue], Southern Metropolitan Daily (Online), 4 June 09.

[217] Zhang Zuhua, "China's Repression of Liu Xiaobo," New York Review of Books, 13 August 09, 76; "Officials Extend Liu Xiaobo's Residential Surveillance Beyond the Legal Time Limit," Congressional-Executive Commission on China (Online), 2 July 09.

[218] "Officials Extend Liu Xiaobo's Residential Surveillance Beyond the Legal Time Limit," Congressional-Executive Commission on China (Online), 2 July 09; "Officials Harass Charter 08 Signers; Liu Xiaobo Under Residential Surveillance," Congressional-Executive Commission on China (Online), 1 February 09; Provisions Concerning Several Issues in the Implementation of the Criminal Procedure Law, art. 24 (a person under residential surveillance does not need permission to meet with his lawyer).

[219] Chinese Human Rights Defenders (Online), "Jiang Tianyong, Tang Jitian Prevented From Meeting With Client by Hebei Feixiang County Court" [Jiang Tianyong, Tang Jitian bei hebei feixiang xian zuzhi huijian dangshi ren], 24 March 09.

[220] Chinese Human Rights Defenders (Online), "Jiang Tianyong, Tang Jitian Prevented From Meeting With Client by Hebei Feixiang County Court" [Jiang tianyong, tang jitian bei hebei feixiang xian fayuan zuzhi huijian dangshiren], 24 March 09. When Jiang and Tang went to the detention center where Ge was being held, they were told by detention center staff that the court had forbidden lawyers from meeting with Ge. Ibid.

[221] Chinese Human Rights Defenders (Online), "Re-Education Through Labor Abuses Continue Unabated: Overhaul Long Overdue," 4 February 09, 12. A former inmate, Jin Hanyan, who spent nearly two years in the Women's RTL Center in Wuhan, Hubei province, for "persistent and unreasonable petitioning" explained: "The RTL camp wouldn't even let us meet with people who could help us with legal remedies, so how could we seek any legal remedies? I submitted a written petition for administrative review, but I found out later that the camp staff withheld it from the proper authorities. Other detainees had the same experience, and never received any kind of legal remedy." Ibid., 53.

[222] UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, CAT/C/CHN/CO/4, 12 December 08, para. 14.

[223] CECC, 2008 Annual Report, 31 October 08, 39, 164. In two recent cases involving Tibetan defendants, authorities have denied the defendants access to counsel of their own choosing. Court officials in Xining city, Qinghai province, refused to let Beijing lawyer Li Dunyong represent the Tibetan documentary filmmaker Dondrub Wangchen. Li reportedly has said that he believes that authorities will handpick their own lawyers to ensure a harsh result for Wangchen. Judicial authorities in Gansu province likewise have prevented well-known Beijing human rights lawyer Li Fangping from representing two monks who were detained after alleged involvement in a political protest. "China Blocks Tibet Lawyers," Radio Free Asia (Online), 20 July 09.

[224] Chinese Human Rights Defenders (Online), "Beijing Justice Bureau Restricts Lawyers in Representing Xinjiang 'July 5' Cases" [Beijing sifaju xianzhi daili xinjiang "7.5" anjian weituo], 13 July 09; see also Human Rights Watch (Online), "China: Cease Attacks on Rights Lawyers," 17 July 09; Audra Ang, "Beijing Warns Lawyers Off Xinjiang Riot Cases," Associated Press (Online) via Yahoo!, 14 July 09. The notice states that before accepting any cases involving the "Xinjiang incident," the partners of the law firm must collectively discuss and research the matter, handle it cautiously, and promptly make a report to authorities. The law firms must also proactively accept "supervision and guidance" from the legal affairs administrative agencies and the lawyers' association. See Chinese Human Rights Defenders (Online), "Beijing Justice Bureau Restricts Lawyers in Representing Xinjiang 'July 5' Cases" [Beijing sifaju xianzhi daili xinjiang "7.5" anjian weituo], 13 July 09.

[225] China Human Rights Lawyers Concern Group (Online), "Concern Over Mainland Lawyers' Freedom to Legal Practice on Urumqi Protest Cases," 15 July 09; Teng Biao, "The Law on Trial in China," Washington Post (Online), 25 July 09 (stating that China's "lawyers' associations are, in fact, puppets of the government whenever a political question arises"). The Xinjiang Lawyers Association reportedly informed lawyers in Xinjiang that it would arrange the handling of all cases related to the protests. See China Human Rights Lawyers Concern Group (Online), "Concern Over Mainland Lawyers' Freedom to Legal Practice on Urumqi Protest Cases," 15 July 09.

[226] Eva Pils, "Yang Jia and China's Unpopular Criminal Justice System," China Rights Forum, No. 1, 2009, 60-61.

[227] Eva Pils, "Yang Jia and China's Unpopular Criminal Justice System," China Rights Forum, No. 1, 2009, 61; Simon Elegant, "Yang Jia: Stranger Than Fiction," Time (Online), 13 November 08; Bill Savadove, "Killer's Mother in Mental Hospital," South China Morning Post (Online), 11 November 08.

[228] Eva Pils, "Yang Jia and China's Unpopular Criminal Justice System," China Rights Forum, No. 1, 2009, 61.

[229] Eva Pils, "Yang Jia and China's Unpopular Criminal Justice System," China Rights Forum, No. 1, 2009, 61. When Xie said publicly before Yang's trial that given the circumstances, his client's punishment would almost certainly be death, Xie's ability to fairly represent Yang was questioned by many Internet users, lawyers, and even the official Chinese newspaper Procuratorial Daily. Ibid. (citing Procuratorial Daily article, "Xie Youming Acting as Yang Jia's Defense Attorney Makes People Feel Uneasy" [Xie youming danren yang jia bianhuren rang ren bu fangxin], 23 July 08, note 26). Although it is not clear how he came up with his estimate, human rights lawyer Li Heping estimated that 400 million Chinese were following Yang Jia's case (see note 15).

[230] Bill Savadove, "Killer's Mother in Mental Hospital," South China Morning Post (Online), 11 November 08; Eva Pils, "Yang Jia and China's Unpopular Criminal Justice System," China Rights Forum, No. 1, 2009, 61–62.

[231] See, e.g., Raymond Li, "Web of Support," South China Morning Post (Online), 10 June 09; Grace Ng, "Rape-Bid Official's Killer Goes Free," Straits Times Online, 17 June 09 (Open Source Center, 17 June 09); Wang Yan, "The Hands That Pull the Lever," NEWSCHINA (published

by China Newsweek Corp.), 5 July 09, 15; Yu Xiaodong, "Netizens, the New Watchdogs," NEWSCHINA (published by China Newsweek Corp.), 5 July 09, 17, 20.

[232] See, e.g., Loretta Chao, "China Murder Case Sparks Women's Rights Uproar," Wall Street Journal (Online), 28 May 09. ("Her defense lawyers were fired at her mother's request this week after disagreements over strategy.") Alexa Olesen, "Chinese Praise Waitress Held for Stabbing Official," Associated Press, reprinted in Washington Post (Online), 22 May 09; Raymond Li, "Public Support for Woman Detained in Stabbing Case," South China Morning Post (Online), 26 May 09.

[233] Su Zhi, Chinese Human Rights Defenders (Online), "Psychiatric Hospitals Have Become a Gulag Archipelago With Chinese Characteristics" [Jingshenbing yuan chengwei ju you zhongguo tese de gulage qundao], 17 May 09.

[234] Alexa Olesen, "Chinese Praise Waitress Held for Stabbing Official," Associated Press, reprinted in Washington Post (Online), 22 May 09.

[235] Li Ming, Chinese Human Rights Defenders (Online), "Important Evidence in Deng Yujiao's Case Mysteriously Destroyed; Lawyers Raise Questions" [Deng yujiao an zhongyao zhengju liqi mieshi lushi tichu zhiyi], 23 May 09; Raymond Li, "Public Support for Woman Detained in Stabbing Case," South China Morning Post (Online), 26 May 09. According to Xia Lin, Deng Yujiao had told the lawyers that Huang Dezhi grabbed her first and attempted to rape her, before Deng Guida, the official she killed, joined in the assault. "Deng Yujiao Tells Her Story," Southern Metropolitan Daily, translated by and reprinted in EastSouthWestNorth Blog, 26 May 09; Wang Yan, "The Hands That Pull the Lever," NEWSCHINA (published by China Newsweek Corp.), 5 July 09, 16.

[236] Xia Lin, "Statement Regarding Deng Yujiao" [Guanyu Deng yujiao yi an de shengming], Xia Lin's Blog (Online), 23 May 09. Xia Lin and Xia Nan issued a statement in response. They wrote that Deng's mother, Zhang Shumei, was taken away by the head of the local police station on May 21, and since that time they had not been able to easily communicate with Zhang. The lawyers wrote that they really had no way of knowing if they had actually been dismissed and that it was completely inappropriate for such an announcement to come from the government, and, consequently, there were serious doubts as to its validity. The lawyers wrote that later on the morning of May 23, they received a call from Zhang Shumei stating that the government press release was not accurate and that she wanted to meet with them. They didn't hear from Zhang until around 4 p.m., when she called to tell them that she did in fact want to dismiss them, and that she was unwilling to meet with them. Ibid.

[237] Raymond Li, "Public Support for Woman Detained in Stabbing Case," South China Morning Post (Online), 26 May 09; Loretta Chao, "China Murder Case Sparks Women's Rights Uproar," Wall Street Journal (Online), 28 May 09; Alexa Olesen, "Chinese Praise Waitress Held for Stabbing Official," Associated Press, reprinted in Washington Post (Online), 22 May 09.

[238] Chinese Human Rights Defenders (Online), "Arrested Dissident Writer Liu Xiaobo Meets With Lawyers for First Time," 27 June 09; Chinese Human Rights Defenders (Online), "Liu Xiaobo Formally Arrested for 'Inciting Subversion of State Power,'" 24 June 09.

[239] "Chinese Dissident Liu's Lawyer Challenges Police Interference Over Attorneys," Der Spiegel, 29 June 09 (Open Source Center, 29 June 09). Mo told Der Spiegel that the authorities had not provided him with any legal justification supporting their action, and that he planned to challenge the decision. He said that the "police have absolutely no right to lay down which attorney may or may not act on behalf of a defendant."

[240] Chinese Human Rights Defenders (Online), "Arrested Dissident Writer Liu Xiaobo Meets With Lawyers for First Time," 27 June 09. Authorities in Sichuan province apparently exerted pressure on detained 1989 student leader Zhou Yongjun's family to fire Mo Shaoping after having hired him to defend Zhou in May 2009. See "Student Democracy Leader Zhou Yongjun's Trial About to Begin; Court Restricts Lawyer's Access to Case File" [Xueyun lingxiu zhou yongjun yishen jiang kaiting; fating xianzhi lushi yuejuan], 3 September 09. For more information on Zhou Yongjun, see his record of detention searchable through the CECC's Political Prisoner Database.

[241] "Ignoring Facts and Law as a Concession to Popular Will Actually Contravenes the Will of the People" [Weile qianjiu minyi bugu shishi he falu cai shi zhenzheng weibei minyi], China Youth Daily (Online), 18 June 09. For more information about Article 306, see CECC, 2008 Annual Report, 31 October 08, 38.

[242] "Ignoring Facts and Law as a Concession to Popular Will Actually Contravenes the Will of the People" [Weile qianjiu minyi bugu shishi he falu cai shi zhenzheng weibei minyi], China Youth Daily (Online), 18 June 09. See also CECC, 2008 Annual Report, 31 October 08, 38–39; Jerome A. Cohen, "Prisoner of the System," South China Morning Post (Online), 21 July 09 (observing that lawyers "who prove too vigorous at trial . . . risk prosecution themselves").

[243] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09, sec. 1.e. The conviction rate for first- and second-instance criminal trials combined was higher than 99 percent in 2007. Ibid.

[244] See, e.g., CECC, 2008 Annual Report, 31 October 08, 39; Ye Doudou, "How China Justifies Empty Witness Chairs," Caijing (Online), 26 June 09; CECC Staff Interviews.

[245] Ye Doudou, "How China Justifies Empty Witness Chairs," Caijing (Online), 26 June 09.

[246] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09, sec. 1.e.

[247] Ye Doudou, "How China Justifies Empty Witness Chairs," Caijing (Online), 26 June 09; PRC Criminal Procedure Law, art. 48; CECC, 2008 Annual Report, 31 October 08, 39. The Caijing report on the absence of witnesses in courtrooms noted that no eyewitnesses appeared at Deng Yujiao's trial on June 16; "[i]nstead, the prosecution presented every bit of witness testimony by submitting written records to the court." In Deng Yujiao's account of what happened to her, as related by Beijing attorney Xia Lin, there was at least one service worker who wit-

nessed the two officials assaulting Deng Yujiao and a "captain" of the bathing services area who had tried to stop the two officials without success. Based on Xia Lin's account, it appears that they likely also witnessed Deng defend herself with a fruit knife, after being dragged around by the men and pushed onto a sofa. See "Deng Yujiao Tells Her Story," Southern Metropolitan Daily, translated by and reprinted in EastSouthWestNorth Blog, 26 May 09; "The Official News Update on Deng Yujiao (5/31/09) (Xinhua)," reprinted in EastSouthWestNorth Blog, 31 May 09. Eyewitness testimony would have been crucial in establishing whether Deng Yujiao had been stripped from the waist down, as she claimed in the account provided by her attorney, and whether her self-defense was indeed "excessive" as the prosecution claimed.

[248] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09, sec. 1.e.

[249] See, e.g., Ng Tze-wei, "Legal Experts Worried by Decision To Free Waitress," South China Morning Post (Online), 18 June 09; Yu Xiaodong, "Netizens, the New Watchdogs," NEWSCHINA (published by China Newsweek Corp.), 5 July 09, 20; Grace Ng, "Rape-Bid Official's Killer Goes Free," The Straits Times Online, 17 June 09; Raymond Li, "Court Convicts, Frees Waitress Who Killed Cadre," South China Morning Post (Online), 17 June 09.

[250] Ng Tze-wei, "Legal Experts Worried by Decision To Free Waitress," South China Morning Post (Online), 18 June 09.

[251] Ng Tze-wei, "Legal Experts Worried by Decision To Free Waitress," South China Morning Post (Online), 18 June 09. See also Raymond Li, "Court Convicts, Frees Waitress Who Killed Cadre," South China Morning Post (Online), 17 June 09.

[252] Ng Tze-wei, "Legal Experts Worried by Decision To Free Waitress," South China Morning Post (Online), 18 June 09. Nanjing-based law professor Zhang Zanning said that the verdict appeared to be a compromise "to please the higher authorities with a guilty verdict and, at the same time, to heed public sentiment by letting the woman go. But the legal system will bear the brunt for losing public trust." Raymond Li, "Court Convicts, Frees Waitress Who Killed Cadre," South China Morning Post (Online), 17 June 09.

[253] UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, CAT/C/CHN/CO/4, 12 December 08, para. 11(d) (noting with concern the "continued reliance on confessions as a common form of evidence for prosecution, thus creating conditions that may facilitate the use of torture and ill-treatment of suspects"); The UN Human Rights Council's Review of China's Record: Process and Challenges, Staff Roundtable of the Congressional-Executive Commission on China, 16 January 09, Testimony of Ms. Felice Gaer, Director, the Jacob Blaustein Institute for the Advancement of Human Rights; CECC 2007 Annual Report, 10 October 07, 10–11.

[254] UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, CAT/C/CHN/CO/4, 12 December 08, para. 11(d); CECC, 2007 Annual Report, 10 October 07, 19. Not only is the arbitrary use of police power used to extract confessions from suspects and defendants, it is also sometimes used to create "facts" that can assist the authorities in handling certain cases. For example, there was no doubt that Deng Yujiao stabbed the two officials who had attempted to rape her on May 10, but the local authorities apparently were after something else when they confined her to a psychiatric hospital after the attack. Deng reportedly told a friend that authorities had beaten her and threatened that if she did not admit to be suffering from depression, they would give her the death penalty. Xiao Zhi, Chinese Human Rights Defenders (Online), "Psychiatric Hospitals Have Become a Gulag Archipelago With Chinese Characteristics" [Jingshenbing yuan chengwei ju you zhongguo tese de gulage qundao], 17 May 09. Deng's "mental disorder" provided one of the mitigating circumstances that led to the verdict of "exemption from punishment." An article in a Chinese news magazine suggested that Deng's "mental illness" was "apparently a thinly-veiled attempt to appease netizens by exempting Deng from punishment, while preserving the reputation of local officials at the same time." Yu Xiaodong, "Netizens, the New Watchdogs," NEWSCHINA, 5 July 09, 20.

[255] Ng Tze-wei, "Anti-Torture Measures in Works, Paper Says," South China Morning Post (Online), 11 August 09; Chinese Human Rights Defenders (Online), "Supreme People's Procuratorate Official: Confessions Obtained Through Torture Will Not Be Admissible as Evidence" [Zuigaojian guanyuan: xingxun bigong suo huo zhengju jiang bu bei caina], 11 August 09.

[256] Ibid.

[257] PRC Criminal Procedure Law, enacted 1 July 79, amended 17 March 96, effective 1 January 97, art. 152; Jerome A. Cohen, "Prisoner of the System," South China Morning Post (Online), 21 July 09.

[258] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09, sec. 1.e; Dui Hua Foundation, "NGO Submission for the Universal Periodic Review of the People's Republic of China: Promoting Increased Transparency in China's Criminal Justice System," February 2009.

[259] Eva Pils, "Yang Jia and China's Unpopular Criminal Justice System," China Rights Forum, No. 1, 2009, 62.

[260] Eva Pils, "Yang Jia and China's Unpopular Criminal Justice System," China Rights Forum, No. 1, 2009, 62.

[261] Maureen Fan, "Confessed Police Killer Lionized by Thousands in China," Washington Post (Online), 14 November 08.

[262] Bill Savadove, "Killer of 6 Police Loses Death Sentence Appeal," South China Morning Post (Online), 21 October 08. The attorney had requested a second psychological evaluation of Yang Jia, which the court denied. The initial psychological assessment, which was ordered by the police, was conducted by an institution that reportedly had ties with officials under the Ministry

of Justice. The assessment found that Yang Jia was in good mental health and had the capacity for full criminal responsibility. See Eva Pils, "Yang Jia and China's Unpopular Criminal Justice System," China Rights Forum, No. 1, 2009, 61; "Killer of Six Chinese Police Executed in Shanghai," Xinhua (Online), 26 November 08.

[263] "Execution of Chinese Prisoner May Proceed in Spite of Alleged Procedural Irregularities," Congressional-Executive Commission on China (Online), 26 November 08.

[264] "Execution of Chinese Prisoner May Proceed in Spite of Alleged Procedural Irregularities," Congressional-Executive Commission on China (Online), 26 November 08; Maureen Fan and Ariana Eunjung Cha, "China's Capital Cases Still Secret, Arbitrary," Washington Post (Online), 24 December 08.

[265] Maureen Fan and Ariana Eunjung Cha, "China's Capital Cases Still Secret, Arbitrary," Washington Post (Online), 24 December 08.

[266] Ibid.

[267] Ibid.

[268] UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, para. 67.

[269] UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, paras. 67, 116.

[270] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09.

[271] CECC, 2008 Annual Report, 31 October 08, 39.

[272] CECC, 2008 Annual Report, 31 October 08, 39–40.

[273] "Top Court: Fewer Executions Expected," People's Daily (Online), 29 July 09; Tania Branigan, "China To Restrict Death Penalty and Cut Executions," Guardian (Online), 29 July 09; Andrew Jacobs, "China Pledges Fewer Death Sentences," New York Times (Online), 29 July 09.

[274] CECC, 2008 Annual Report, 31 October 08, 40; Maureen Fan and Ariana Eunjung Cha, "China's Capital Cases Still Secret, Arbitrary," Washington Post (Online), 24 December 08.

[275] Amnesty International (Online), Amnesty International Report 2009: China (2009); Choi Chi-yuk, "Mainland Executions Up 260pc, Report Says," South China Morning Post (Online), 29 May 09; Tania Branigan, "China To Restrict Death Penalty and Cut Executions," Guardian (Online), 29 July 09.

[276] Dui Hua Foundation, "Translation and Commentary: 'The Death Penalty: When Will the 'Last Shot' Be Heard?'" 28 August 09. Dui Hua had the same estimate—5,000 executions—for 2007. See CECC, 2008 Annual Report, 31 October 08, 40.

[277] Xie Chuanjiao, "Beijing Ready for Lethal Injections," China Daily (Online), 16 June 09.

[278] Xie Chuanjiao, "Beijing Ready for Lethal Injections," China Daily (Online), 16 June 09; "Beijing To Adopt Lethal Injections Over Bullets," Agence France-Presse, reprinted in South China Morning Post (Online), 16 June 09.

[279] PRC Criminal Procedure Law, enacted 1 July 79, amended 17 March 96, effective 1 January 97, art. 212; Xie Chuanjiao, "Beijing Ready for Lethal Injections," China Daily (Online), 16 June 09.

[280] "Firing Squads To Be Phased Out as Beijing Moves to Lethal Injections," Reuters, reprinted in South China Morning Post (Online), 17 June 09.

[281] Xie Chuanjiao, "Beijing Ready for Lethal Injections," China Daily (Online), 16 June 09.

[282] Liu Renwen, "The Course of Humanization of the Criminal Law," Southern Weekend, 18 June 09, translated by Dui Hua Foundation and reprinted in Dui Hua Human Rights Journal (Online), 25 June 09.

[283] Donald Clarke, "Liu Renwen on Death by Lethal Injection," Chinese Law Prof Blog, 25 June 09. See also Dui Hua Foundation, Reference Materials on China's Criminal Justice System, Vol. 2, June 2009, x–xi (discussion) and 53–60 (reference materials in original Chinese and English translations).

[284] Maureen Fan and Ariana Eunjung Cha, "China's Capital Cases Still Secret, Arbitrary," Washington Post (Online), 24 December 08; "Execution of Chinese Prisoner May Proceed in Spite of Alleged Procedural Irregularities," Congressional-Executive Commission on China (Online), 26 November 08.

[285] Maureen Fan and Ariana Eunjung Cha, "China's Capital Cases Still Secret, Arbitrary," Washington Post (Online), 24 December 08; "Execution of Chinese Prisoner May Proceed in Spite of Alleged Procedural Irregularities," Congressional-Executive Commission on China (Online), 26 November 08.

[286] Eva Pils, "Yang Jia and China's Unpopular Criminal Justice System," China Rights Forum, No. 1, 2009, 63.

[287] Ibid.

[288] C. Custer, "The Story of Yang Jia's Mother," translated by and posted on ChinaGeeks Blog, 2 April 09.

[289] Ibid.

Notes to Section II—Freedom of Religion

[1] See Section V—Tibet for additional information.

[2] See China's Religious Communities—Buddhism in this section for additional information.

[3] See China's Religious Communities—Catholics in this section for additional information.

[4] See China's Religious Communities—Falun Gong in this section for additional information.

[5] See China's Religious Communities—Islam in this section for additional information.

[6] See China's Religious Communities—Protestants in this section for additional information.

[7] See China's Religious Communities—Taoism in this section for additional information.

[8] See China's Religious Communities—Other Religious Communities in this section for additional information.

[9] See The Legal Framework for Religion in China in this section for additional information.

[10] See Restrictions on Children's Freedom of Religion in this section for additional information.
[11] See Controls Over Religious Publications in this section for additional information.
[12] See Social Welfare Activities by Religious Communities in this section for additional information.
[13] See examples within this section as well as general statements affirming basic Communist Party policy toward religion, as cited in, e.g., State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09; State Administration for Religious Affairs (Online), "State Administration for Religious Affairs Holds Focused Study Training Class for Cadres Above Department Level" [Guojia zongjiaoju juban chu yishang dangyuan ganbu jizhong xuexi peixun ban], 29 October 08; State Administration for Religious Affairs (Online), "Our Bureau Launches Meeting To Evaluate, Critique Masses' Degree of Satisfaction With Study and Practice Activities for Scientific Development View" [Wo ju zhaokai xuexi shijian kexue fazhan guan huodong qunzhong manyi du ce ping hui], 27 February 09; State Administration for Religious Affairs (Online), "Jia Qinglin: Implement Party's Basic Policy on Religion Work, Unceasingly Initiate Fresh Progress for Religion Work" [Jia qinglin: guanche dang de zongjiao gongzuo jiben fangzhen buduan kaichuang zongjiao gongzuo xin jumian], 17 April 09.
[14] Members of the People's Liberation Army are also forbidden from practicing religion. Bureau of Democracy, Human Rights, and Labor, U.S. Department of State (Online), International Religious Freedom Report—2008, China (includes Tibet, Hong Kong, and Macau), 19 September 08.
[15] State Administration for Religious Affairs (Online), "Central United Front Department Vice Minister Li Dezhu Comes to Our Bureau for Investigation and Research, Carries Out Exchange on Launching Study Practicum Activities" [Zhongyang tongzhan bu fubuzhang li dezhu dao wo ju diaoyan jiu kaizhan xuexi shijian huodong jinxing jiaoliu], 3 November 08.
[16] "State-Controlled Catholic Church Celebrates Independence From 'Foreign Interference,'" CECC China Human Rights and Rule of Law Update, January 2009, 4. "State-Controlled Church Continues To Align Protestant Doctrine to Communist Party Policy," CECC China Human Rights and Rule of Law Update, December 2008, 3.
[17] See, e.g., State Administration for Religious Affairs (Online), "State Administration for Religious Affairs Holds Focused Study Training Class for Cadres Above Department Level" [Guojia zongjiaoju juban chu yishang dangyuan ganbu jizhong xuexi peixun ban], 29 October 08; State Administration for Religious Affairs (Online), "Our Bureau Launches Meeting To Evaluate, Critique Masses' Degree of Satisfaction With Study and Practice Activities for Scientific Development View" [Wo ju zhaokai xuexi shijian kexue fazhan guan huodong qunzhong manyi du ce ping hui], 27 February 09; State Administration for Religious Affairs (Online), "Director Ye Xiaowen Gives Lectures on Religion for Hubei Party Committee Central Figures Study Group" [Ye xiaowen juzhang wei hubei shengwei zhongxin xuexi zu zuo zongjiao zhuanti jiangzuo], 5 March 09; State Administration for Religious Affairs (Online), "Hui Liangyu Emphasizes: Conscientiously Heighten and Improve Capacity and Level of Religion Work" [Hui liangyu qiangdiao: qieshi tigao zuohao zongjiao gongzuo de nengli he shuiping], 10 April 09. See also mention of a "positive role" in State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09. For an overview of past efforts to articulate a "positive role" for religion, see "Politburo Study Session Calls for Uniting Religious Communities Around Party," CECC China Human Rights and Rule of Law Update, January 08, 3.
[18] See, e.g., "State-Controlled Catholic Church Celebrates Independence From 'Foreign Interference,'" CECC China Human Rights and Rule of Law Update, January 2009, 4; "Government Calls for Strengthening Propaganda on Ethnic Policy," CECC China Human Rights and Rule of Law Update, February 2009, 2; China National Committee for the Wellbeing of Youth (Online), "Taking Socialism as the Core Value System for Guiding Work on Earnestly Caring About Next Generation" [Yi shehuizhuyi hexin jiazhi tixi wei zhidao renzhen zuohao guanxin xiayidai gongzuo], 23 October 08 (citing a speech delivered on August 21 by Liu Shangyang). See also China's Religious Communities—Islam in this section and Section IV—Xinjiang for information on rhetoric against foreign groups perceived to use religion to infiltrate Muslim communities, especially in the Xinjiang Uyghur Autonomous Region.
[19] Yan Feng, "PRC Embassy in the US Issues a Press Communique Marking the 30th Anniversary of the Establishment of China-US Diplomatic Relations," Xinhua, 1 January 09 (Open Source Center, 2 January 09).
[20] This section of the Commission's Annual Report primarily uses the expression "freedom of religion" but encompasses within this term reference to the more broadly articulated freedom of "thought, conscience, and religion" (see, e.g., the Universal Declaration of Human Rights (UDHR), adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, art. 18). For protections in international law, see, e.g., UDHR, art. 18; International Covenant on Civil and Political Rights (ICCPR), adopted by General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 18; International Covenant on Economic, Social and Cultural Rights (ICESCR) adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 3 January 76, art. 13(3) (requiring States Parties to "ensure the religious and moral education of . . . children in conformity with [the parents'] own convictions"); Convention on the Rights of the Child (CRC), adopted and opened for signature, ratification, and accession by UN General Assembly resolution 44/25 of 20 November 89, entry into force 2 September 90, art. 14; Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, General Assembly resolution 36/55 of 25 November 81. See General Comment No. 22 to Article 18 of the ICCPR for an official interpretation of freedom of religion as articulated in the ICCPR. General Comment No. 22: The Right to Freedom of Thought, Conscience, and Religion (art. 18), 30 July 93, para. 1. China is a party to the ICESCR and the CRC, and a signatory to the ICCPR. China has signed, but has not yet ratified, the ICCPR. As in previous years, the Chinese Government this reporting year continued to reit-

erate its commitment to ratifying the ICCPR, which China signed in 1998. In February 2009, during the UN Human Rights Council's Universal Periodic Review of the Chinese Government's human rights record, the Chinese Government supported recommendations made by Member States that China ratify the ICCPR. At the time, Chinese officials also said China was in the process of amending domestic laws, including the criminal procedure law and laws relating to reeducation through labor, to make them compatible with the ICCPR. UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, paras. 63, 114(1). Moreover, in the 2009–2010 National Human Rights Action Plan (HRAP) issued by the Chinese Government in April 2009, officials stated that the ICCPR was one of the "fundamental principles" on which the plan was framed, and that the government "will continue legislative, judicial and administrative reforms to make domestic laws better linked with this Covenant, and prepare the ground for approval of the ICCPR." State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, introduction, sec. V(1).

[21] PRC Constitution, art. 36.

[22] For specific examples of the range of religious activities protected under international law, see General Comment No. 22 to Article 18 of the International Covenant on Civil and Political Rights. General Comment No. 22: The Right to Freedom of Thought, Conscience, and Religion (art. 18), 30 July 93, para. 1. The Chinese Government denies such protected activities as the freedom to "freedom to prepare and distribute religious texts or publications" (General Comment No. 22, para. 4) and the "liberty of parents or legal guardians to ensure that their children receive a religious and moral education in conformity with their own convictions" (General Comment No. 22, para. 6). See Controls over Religious Publications and Restrictions on Children's Freedom of Religion in this section for more information. See also China's Religious Communities, in this section, for additional examples of suppression of different forms of religious practice. For an interpretation of the provision protecting "normal religious activities" within the Regulation on Religious Affairs (RRA), written by drafters of the regulation, see Shuai Feng and Li Jian, Interpretation of the Regulation on Religious Affairs [Zongjiao shiwu tiaoli shiyi], (Beijing: Beijing Religious Culture Press, 2005), 19. (See also page 6 of the preface of the book, noting the authors' status as drafters of the RRA.)

[23] The central government has referred to the five religions as China's main religions, but in practice the state has created a regulatory system that institutionalizes only these five religions for recognition and legal protection. See, e.g., State Council Information Office, White Paper on Freedom of Religious Belief in China [Zhongguo de zongjiao xinyang ziyou zhuangkuang], 1 October 97 (stating that the religions citizens "mainly" follow are Buddhism, Daoism, Islam, Catholicism, and Protestantism). Wording from this White Paper is posted as a statement of current policy on the Web sites of the United Front Work Department, the agency that oversees religious affairs within the Communist Party, and the State Administration for Religious Affairs. Some local regulations on religious affairs define religion in China to mean only these five categories. See, e.g., Guangdong Province Regulation on the Administration of Religious Affairs [Guangdongsheng shiwu guanli tiaoli], issued 26 May 00, effective 30 June 00, art. 3, and Henan Province Regulation on Religious Affairs [Henansheng zongjiao shiwu tiaoli], issued 30 July 05, effective 1 January 06, art. 2. There is some limited formal tolerance outside this framework for some ethnic minority and "folk" religious practices. See subsection on China's Religious Communities—Other Religious Communties in this section and see also Kim-Kwong Chan and Eric R. Carlson, Religious Freedom in China: Policy, Administration, and Regulation (Santa Barbara: Institute for the Study of American Religion, 2005), 9–10, 15–16.

[24] Some organizations operate without any registration. A limited number of organizations have registered with local officials without affiliating with a Party-controlled religious association. Bureau of Democracy, Human Rights, and Labor, U.S. Department of State (Online), International Religious Freedom Report—2008, China (includes Tibet, Hong Kong, and Macau), 19 September 08.

[25] See China's Religious Communities—Falun Gong in this section for detailed information.

[26] See generally Bureau of Democracy, Human Rights, and Labor, U.S. Department of State (Online), International Religious Freedom Report—2008, China (includes Tibet, Hong Kong, and Macau), 19 September 08. According to the U.S. Commission on International Religious Freedom, a "zone of toleration" exists within China for registered religious communities acting within the parameters set by the government. U.S. Commission on International Religious Freedom, "Policy Focus: China," 9 November 05, 4.

[27] At the central government level, see generally Regulation on Religious Affairs (RRA) [Zongjiao shiwu tiaoli], issued 30 November 04, effective 1 March 05. For an overview of the general requirements within the RRA and an examination of several provincial-level regulations, see "Zhejiang and Other Provincial Governments Issue New Religious Regulations," CECC China Human Rights and Rule of Law Update, June 2006, 9–10. Although the national RRA does not explicitly state that the regulation applies to state-sanctioned groups, the government's policy framework of recognizing only select groups for recognition, and in some cases banning other groups, creates a legal structure that excludes some religious and spiritual groups from legal protections.

[28] For registration requirements in the Regulation on Religious Affairs (RRA), see Regulation on Religious Affairs [Zongjiao shiwu tiaoli], issued 30 November 04, effective 1 March 05, art. 6. Under article 6 of the RRA, religious organizations must register in accordance with the rules established under the Regulation on the Registration and Management of Social Organizations, issued and effective 25 October 98. See the RRA generally for provisions defining the scope of state control over various internal affairs of religious groups. For detailed analysis, including analysis of registration requirements in local government regulations, see "Zhejiang and Other Provincial Governments Issue New Religious Regulations," CECC China Human Rights and Rule of Law Update, June 2006, 9–10.

[29] Regulation on Religious Affairs (RRA) [Zongjiao shiwu tiaoli], issued 30 November 04, effective 1 March 05, arts. 12–15. In addition to provisions in the RRA on the registration of venues for religious activity, Measures on the Examination, Approval, and Registration of Venues for Religious Activity also govern this process. Measures on the Examination, Approval, and Registration of Venues for Religious Activity [Zongjiao huodong changsuo sheli shenpi he dengji banfa], issued 14 April 05, effective 21 April 05. For more analysis of registration requirements, including in local government regulations, see "Zhejiang and Other Provincial Governments Issue New Religious Regulations," CECC China Human Rights and Rule of Law Update, June 2006, 9–10.

[30] See generally Bureau of Democracy, Human Rights, and Labor, U.S. Department of State (Online), International Religious Freedom Report—2008, China (includes Tibet, Hong Kong, and Macau), 19 September 08; Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09. See also China's Religious Communities within this section for more information.

[31] For example, in 2006, local officials expelled a registered church leader in Shanxi province after his church invited an American missionary to the church. ChinaAid (Online), "Government Intervenes Into a Three-Self Church in Shanxi Province, Pastor Evicted," 9 August 06. The same year, the national Buddhist Association, in coordination with government officials, expelled a Buddhist monk from a temple in Jiangxi province after the monk led religious activities to commemorate victims of the violent suppression of Tiananmen protests and took measures to address corruption among government officials and the Buddhist Association. Authorities accused the monk of engaging in improper relations with lay practitioners and dismissed him on those alleged grounds. "Jiangxi Buddhist Master Accused of Being a Womanizer and Driven Out of Temple," Sing Tao Jih Pao, 25 August 06 (Open Source Center, 27 August 06); Human Rights in China (Online), "Top Buddhist Officials Join in Persecution of Activist Monk," 23 August 06.

[32] For a chart listing recent central government and provincial-level government legislative activity in the area of religion, see CECC, 2008 Annual Report, 31 October 08, 74–75. The chart excludes the Jiangsu and Hubei province regulations. Jiangsu Province Regulation on Religious Affairs [Jiangsu sheng zongjiao shiwu tiaoli], issued 5 February 02, enacted 1 June 02, amended 20 May 09, effective 1 July 09. See also Jiangsu Province People's Congress Standing Committee Decision Concerning "Jiangsu Province Regulation on Religious Affairs" [Jiangsu sheng renmin daibiao dahui changwu weiyuanhui guanyu xuigai "jiangsu sheng zongjiao shiwu tiaoli" de jueding], 20 May 09 (noting date of amendment's effectiveness); Hubei Province Regulation on Religious Affairs [Hubei sheng zongjiao shiwu tiaoli], issued 31 July 09, effective 1 October 09. In addition, in 2009, the Xinjiang Uyghur Autonomous Region government reported it was in the process of amending its regulation on the management of religious affairs. "Xinjiang Plans To Draft Two Regulations on Ethnic Unity Education and Anti-Separatism Battle" [Xinjiang ni zhiding minzu tuanjie jiaoyu he fan fenlie douzheng liang fagui], People's Daily, reprinted in China Ethnicities News (Online), 25 July 09.

[33] See detailed analysis in "Head of Religious Association: Religious Adherents Not Arrested Due to Their Faith," Congressional-Executive Commission on China (Online), 26 June 06. The Regulation on Religious Affairs (RRA) provides administrative penalties, such as fines, for violations of its stipulations; such administrative penalties also include the possibility of limited short-term detention under the Public Security Administration Punishment Law. The RRA is not authorized, as a regulation, to provide criminal penalties. At the same time, like other regulations, the RRA includes boilerplate language referring to the necessity of pursuing a criminal investigation if a "crime is constituted." For example, where "anyone uses religion to carry out such illegal activities as harm state security or public security, infringe upon citizens' right of the person and democratic rights, impair the administration of public order, or infringe upon public or private property," criminal charges are to be pursued where a "crime is constituted." Regulation on Religious Affairs [Zongjiao shiwu tiaoli], issued 30 November 04, effective 1 March 05, art. 40.

[34] The government uses Article 300 of the PRC Criminal Law to punish activities deemed to be cult related. Chinese authorities also punish religious adherents by prosecuting them under other Criminal Law provisions, such as by portraying the printing and distribution of religious literature, a freedom protected under international human rights law, as the crime of "illegal operation of a business." See information on Shi Weihan, discussed within, for an example of the use of this charge against religious believers. PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, arts. 225, 300.

[35] Administrative punishments can range from a warning or fine to detention in a reeducation through labor (RTL) center for up to three years, with the possibility of a one-year extension. Forms of administrative detention include short-term detention under the Public Security Administration Punishment Law, RTL, forced psychiatric commitment, forced drug detoxification, work-study schools, and detention of corrupt officials under Party rules. For more information, see CECC, 2006 Annual Report, 20 September 06, 51–53, and "Head of Religious Association: Religious Adherents Not Arrested Due to Their Faith," Congressional-Executive Commission on China (Online), 26 June 06.

[36] "Head of Religious Association: Religious Adherents Not Arrested Due to Their Faith," Congressional-Executive Commission on China (Online), 26 June 06.

[37] See, e.g., CECC, 2007 Annual Report, 10 October 07, 102.

[38] See The Legal Framework for Religion in China in this section for information on domestic law. On international human rights standards, see, e.g., Universal Declaration of Human Rights, art. 18; International Covenant on Civil and Political Rights (ICCPR), adopted by General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 18; the International Covenant on Economic, Social and Cultural Rights (ICESCR) adopted by General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 3 January 76, art.

13(3) (requiring States Parties to "ensure the religious and moral education of . . . children in conformity with [the parents'] own convictions"); and the Convention on the Rights of the Child, adopted and opened for signature, ratification, and accession by General Assembly resolution 44/25 of 20 November 89, entry into force 2 September 90, art. 14. See also General Comment No. 22: The Right to Freedom of Thought, Conscience, and Religion (Art. 18), 30 July 93, para. 6.

[39] Law on the Protection of Minors, adopted 4 September 91, effective 1 January 92, art. 2. See examples that follow for restrictions on college students' activities.

[40] For the government spokesperson's statement, see "MFA Spokesperson Liu Jianchao Answers Reporters Questions" [Waijiaobu fayanren Liu Jianchao huida jizhe tiwen], Ministry of Foreign Affairs (Online), 16 March 05. The Regulation on Religious Affairs stipulates protections for freedom of religious belief but does not specifically address children. See Regulation on Religious Affairs [Zongjiao shiwu tiaoli], issued 30 November 04, effective 1 March 05, art. 2. For provincial regulations, see, e.g., Fujian Province Implementing Measures on the "Law on the Protection of Minors" [Fujiansheng shishi "zhonghua renmin gongheguo weichengnianren baohufa" banfa], issued 21 November 94, effective 21 November 94, amended 25 October 97, art. 33; Inner Mongolia Autonomous Region Implementing Measures on the Management of Venues for Religious Activity [Neimenggu zizhiqu zongjiao huodong changsuo guanli shishi banfa], issued 23 January 96, effective 23 January 96, art. 13. See also China's Religious Communities—Islam in this section for a discussion of legislation in the Xinjiang Uyghur Autonomous Region.

[41] ChinaAid reported in July that a Bible school in Jiangsu province was raided and students ordered not to attend again. Prior to that, however, the school had "been in existence for several years without any problems from authorities." ChinaAid (Online), "Bible School Raided in Suqian City, Jiangsu Province," 20 July 09. See also, e.g., Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, International Religious Freedom Report—2006, China (includes Tibet, Hong Kong, and Macau), 15 September 06; CECC, 2006 Annual Report, 20 September 06, 89.

[42] See China's Religious Communities in this section for more information as well as Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09.

[43] China National Committee for the Wellbeing of Youth (Online), "Taking Socialism as the Core Value System for Guiding Work on Earnestly Caring About Next Generation" [Yi shehuizhuyi hexin jiazhi tixi wei zhidao renzhen zuohao guanxin xiayidai gongzuo], 23 October 08.

[44] ChinaAid (Online), "More Than 400 College Students in Beijing and Hangzhou Detained and Interrogated; Four Church Leaders Sentenced to Labor Camps," 3 December 08.

[45] Shaanxi Ethnic Affairs Commission and Religious Affairs Bureau (Online), "Basic Situation for Religion in Shaanxi Province" [Shaanxi sheng zongjiao jiben qingkuang], 4 January 09. The article discusses events through 2007 and may be a reposting of an earlier report.

[46] General Comment No. 22 to Article 18 of the International Covenant on Civil and Political Rights states that freedom of religion includes the "freedom to prepare and distribute religious texts or publications." General Comment No. 22: The Right to Freedom of Thought, Conscience, and Religion (art. 18), 30 July 93, para. 4. For more information on China's system of controlling the publication of religious materials, see "Prior Restraints on Religious Publishing in China," Congressional-Executive Commission on China (Online), last visited 23 June 09.

[47] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 225.

[48] ChinaAid (Online), "Christian Shi Weihan Sentenced to Three Years in Prison for Printing and Giving Away Bibles," 11 June 09. See also the Congressional-Executive Commission on China Political Prisoner Database for more information. In recent years, authorities have used similar criminal charges to imprison other people for printing and distributing religious texts. See, e.g., the cases of Cai Zhuohua, Wang Zaiqing, and Zhou Heng in the Congressional-Executive Commission on China Political Prisoner Database.

[49] ChinaAid (Online), "Christian Shi Weihan Sentenced to Three Years in Prison for Printing and Giving Away Bibles," 11 June 09.

[50] For more information, see, e.g., ChinaAid (Online), "Imprisoned Christian Shi Weihan Scheduled for Trial April 9," 6 April 09; ChinaAid (Online), "Shi Weihan Released on Bail, Government Officials Decide Not To Pursue Criminal Charges," 7 January 08. See also the Congressional-Executive Commission on China Political Prisoner Database.

[51] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State (Online), International Religious Freedom Report—2008, China (includes Tibet, Hong Kong, and Macau), 19 September 08.

[52] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09.

[53] See, e.g., ChinaAid (Online), Annual Report of Persecution by the Government on Christian House Churches Within Mainland China January 2008–December 2008, January 2009, 19, 21 (see pages 12 and 20 for examples in 2008 outside the 2009 reporting year).

[54] Based on CECC analysis, factors such as the content of the publications render them illegal, rather than or in addition to a possible status as a "pirated" publication or publication deemed pornographic. Government reports have differentiated between pirated publications and "illegal" ones. For background, see "Xinjiang Government Strengthens Campaign Against Political and Religious Publications," CECC China Human Rights and Rule of Law Update, February 2008, 4.

[55] Regulation on Religious Affairs [Zongjiao shiwu tiaoli], issued 30 November 04, effective 1 March 05, art. 34. For an earlier provincial-level regulation, see, e.g., Beijing Municipality Regu-

lation on Religious Affairs [Beijingshi zongjiao shiwu tiaoli], issued 18 July 02, effective 1 November 02, art. 8.

[56] It states that the government "encourages and supports religious circles in launching social welfare programs, exploring methods and channels for religions to better serve society and promote the people's well-being." State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09.

[57] See, e.g., State Administration for Religious Affairs (Online), "Hebei Province Buddhist Association Rushes to Sichuan Earthquake Disaster Area To Provide Disaster Relief" [Hebeisheng fojiao xiehui jinji fu sichuan dizhen zaiqu zhenzai], 23 May 08; Amity Foundation (Online), "Overseas Partners Visit the Earthquake Region," 22 October 08; Amity Foundation (Online), "Wheelchairs and More for Earthquake Victims," 15 October 08.

[58] Shifang City People's Government (Online), "Shifang City Communist Party Committee United Front Work Department Report Concerning 5.12 Anti-Quake Disaster Relief Conditions" [Zhong gong shifang shi wei tongzhanbu guanyu 5–12 kangzhen jiuzai qingkuang de baogao], 20 October 08.

[59] ChinaAid (Online), "American Journalist and Interpreter Detained in Henan; Chinese Government Bans Chinese House Church Alliance," 29 November 09.

[60] ChinaAid (Online), "Christians in Earthquake Disaster Areas Raided by Police on Christmas Eve," 27 December 08.

[61] ChinaAid (Online), "Government Approved Church Leaders Withhold Donated Quake Funds; Whistleblower Christian Sentenced," 30 July 09.

[62] ChinaAid (Online), "Sichuan Earthquake-Relief Helpers Tried for 'Disturbing the Peace,'" 4 September 09.

[63] This section pertains to what official sources refer to as "Buddhism in the Han tradition," an inaccurate umbrella term that encompasses all schools of Buddhism in China, aside from the Tibetan tradition. "Buddhism in the Han tradition" (*hanchuan fojiao*) is inaccurate in religious terms. Buddhists divide themselves along lines determined according to a number of traditions, ritual practices, and schools of thought, but not in purely ethnic terms. It is also worth noting that with the possible exception of the Chan school of Buddhism, there is arguably no true "Han tradition" of Buddhism. All non-Chan schools of Buddhism in China can be clearly traced to Indian sources. In addition, there are Chinese citizens belonging to officially recognized "ethnic minority" groups, such as the Dai, that practice Theravada Buddhism—a branch of Buddhism completely outside of what Chinese officials mean by the "Han tradition" (non-esoteric Mahayana Buddhism as practiced by non-Tibetans).

[64] Regulation on Religious Affairs [Zongjiao shiwu tiaoli], art. 6, 27–29, adopted 7 July 04, effective 1 March 05; Constitution of the Buddhist Association of China [Zhongguo fojiao xiehui zhangcheng], enacted 18 September 02, art. 3.

[65] See second paragraph of main text for examples of official harassment and closure of unregistered Buddhist temples and meeting sites. For examples of detention or "transformation through reeducation," see Taixing City People's Government Opinion on the Launch of Special Administration for Our Township's Outstanding Problems With Religion [Guanyu dui wozhen zongjiao tuchu wenti kaizhan zhuanxiang zhili de yijian], issued 29 March 09; "The Hearts of the Masses Compose 'Song of Safety': Shandan Unfolds Social Order Comprehensive Management Work Record" [Zhongxin pu jiu 'ping'an qu' shandan kaizhan shehui zhi'an zonghe zhili gongzuo jishi], Zhangye Daily, reprinted in Zhangye Municipal Political-Legal Committee (Online), 30 June 09.

[66] For the prohibition on "superstitious activities," see "National Measures for Managing Buddhist Temples in the Han Tradition" [Quanguo hanchuan fojiao siyuan guanli banfa], enacted 21 October 93, ch. 2, art. 8; for the political requirements, see ibid., ch. 3, arts. 9, 10, 16. For an example of officials manipulating the Buddhist tradition to advance political goals, see "Loving the Nation and Loving Religion Is a Fine Buddhist Tradition—Master Xiangben" [Aiguo aijiao shi fojiao de youliang chuantong—xiangben fashi], Fojiao Zaixian (Online), 1 April 09.

[67] Constitution of the Buddhist Association of China, enacted 18 September 02, arts. 2–3; Raoul Birnbaum, "Buddhist China at the Century's Turn," 174 China Quarterly 428, 438–439 (June 2003). For specific examples of restrictions cited above, see "National Measures for Managing Buddhist Temples in the Han Tradition" [Quanguo hanchuan fojiao siyuan guanli banfa], enacted 21 October 93, ch. 3, arts. 12–16, 29.

[68] For example, in October 2008, Chengdu municipal authorities in Sichuan province reported that they had "repeatedly launched" special campaigns to suppress "chaotic" construction of unauthorized Buddhist temples and sacred statues. Chengdu Municipal People's Congress (Online), Report Concerning the Situation With Religious Work in Chengdu Municipality [Guanyu chengdu shi zongjiao gongzuo qingkuang de baogao], 29 October 08.

[69] Daqing Municipal People's Congress (Online), "Investigative Report Concerning Religious Affairs Management in Our City" [Guanyu woshi zongjiao shiwu guanli qingkuang de diaocha baogao], 28 August 08, sec. 2, pt. 4.

[70] Ibid.

[71] Zhengning County Yulinzi Township People's Government Opinion on the 2008 Plan for United Front Work [Guanyu 2008 nian tongzhan gongzuo de anpai yijian], issued 19 June 08.

[72] Ganzhou Municipal People's Government (Online), "Ganzhou Municipal Bureau of Ethnic and Religious Affairs 2009 Essential Work Points" [Ganzhou shi minzong ju 2009 nian gongzuo yaodian], 22 March 09; Ningdu County People's Government (Online), "Our Bureau Launches Special Disciplinary Work To Stop the Disorderly Construction of Temples and Sites for Religious Activities" [Woju kaizhan zhizhi luanjian simiao, luanshe zongjiao huodong changsuo zhuanxiang zhengzhi gongzuo], 22 December 08; Ruijin City People's Government (Online), "Ruijin City Ethnic and Religious Affairs Bureau Work Summary for the First Half of 2008 and Work Plan for Last Half of the Year" [Ruijin shi minzongju 2008 nian shang bannian gongzuo zongjie ji xiabannian gongzuo dasuan], 22 June 08; Fuyang City Party Committee's United Front Work Department (Online), "Concerning Some Reflections on Strengthening County-Level

United Front Work" [Guanyu jiaqiang xianji tongzhan gongzuo de jidian sikao], 25 September 08.

[73] Ningdu County People's Government (Online), "Our Bureau Launches Special Disciplinary Work To Stop the Disorderly Construction of Temples and Sites for Religious Activities" [Woju kaizhan zhizhi luanjian simiao, luanshe zongjiao huodong changsuo zhuanxiang zhengzhi gongzuo], 22 December 08.

[74] A Ministry of Public Security circular indicates that public criticism of the Communist Party by the sect's founder—a nun called the Supreme Master Ching Hai—prompted the government to apply the "cult" designation to her followers in 1995. See Ministry of Public Security, Circular on Several Issues with Designating and Banning Cult Organizations [Gonganbu guanyu rending he qudi xiejiao zuzhi ruogan wenti de tongzhi], 30 April 00.

[75] The Yunxi County 6–10 Office in Hubei province published a report in 2008 that characterized Guanyin Famen as a "cult that hides behind the banner of Buddhist faith" and urged citizen informants who witness or receive word about "cult activities" to "immediately notify" Party cadres and the public security bureau. Dianzi Township People's Government (Online), "Yunxi County's Ten Things To Know in 'Upholding Science, Opposing Cults'" [Yunxi xian 'chongshang kexue, fandui xiejiao' shi zhidao], 26 April 08. For other examples, see Hegang Municipal People's Government (Online), "Municipal 6–10 Office Deploys Five Work Projects To Ensure the City's Social Stability During the Olympic Period" [Shi 610 bangongshi bushu wuxiang gongzuo quebao aoyunhui qijian woshi shehui wending], 9 July 08; Tanggu District People's Government (Online), "Xinhe Residential Community Judicial Office Earnestly Completed Social Stability Work in the 'June 4' Period" [Xinhe sifasuo renzhen zuohao 'liusi' qijian de shehui wending gongzuo], 11 June 09.

[76] "The Hearts of the Masses Compose 'Song of Safety': Shandan Unfolds Social Order Comprehensive Management Work Record" [Zhongxin pu jiu 'ping'an qu' shandan kaizhan shehui zhi'an zonghe zhili gongzuo jishi], Zhangye Daily, reprinted in Zhangye Municipal Political-Legal Committee (Online), 30 June 09.

[77] CECC, 2006 Annual Report, 20 September 06, 87.

[78] "Underground Bishop of Xiwanzi Released After Two and a Half Years in Prison," AsiaNews (Online), 12 February 09; Betty Ann Maheu, "The Catholic Church in China," 193 America 8, 10 (7 November 05).

[79] Shaanxi Provincial Ethnic Affairs Commission and Religious Affairs Bureau (Online), "The Basic Situation for Religion in Shaanxi Province" [Shaanxi sheng zongjiao jiben qingkuang], 4 January 09.

[80] Ibid.

[81] Ibid.

[82] Ibid.

[83] Ibid.

[84] U.S. Commission on International Religious Freedom (Online), 2009 Annual Report, 1 May 09, 81.

[85] Betty Ann Maheu, "The Catholic Church in China," 193 America 8, 10 (7 November 05); John L. Allen, Jr., "The Uphill Journey of Catholicism in China," National Catholic Reporter (Online), 3 August 07. Richard Madsen, China's Catholics: Tragedy and Hope in an Emerging Civil Society (Berkeley: University of California Press, 1998), 17.

[86] "As Catholics Celebrate Easter, Familiar Tensions Persist," Agence France-Presse, reprinted in South China Morning Post (Online), 13 April 09.

[87] "Underground Bishop of Xiwanzi Released After Two and a Half Years in Prison," AsiaNews (Online), 12 February 09.

[88] Chen blamed the local officials' failure to provide "effective management" for allowing some religious organizations to succeed in opening Web sites and publishing periodicals and books. Hubei Provincial Office for Ethnic and Religious Affairs (Online), "Party Secretary and Head of the Hebei Office of Ethnic and Religious Affairs Chen Huixin's Speech to the Summary Forum on the Stage of Investigation and Research" [Ting dangzu shuji, tingzhang chen huixin zai xuexi diaoyan jieduan zongjie zuotanhui shang de jianghua], 1 December 08.

[89] Hubei Provincial Office for Ethnic and Religious Affairs (Online), "Party Secretary and Head of the Hebei Office of Ethnic and Religious Affairs Chen Huixin's Speech to the Summary Forum on the Stage of Investigation and Research" [Ting dangzu shuji, tingzhang chen huixin zai xuexi diaoyan jieduan zongjie zuotanhui shang de jianghua], 1 December 08.

[90] "Hebei Provincial United Front Department Secretary-General Visits Wu'An City for Catholic Guidance Work" [Hebei: sheng tongzhanbu mishuzhang guanglin wu'an shi tianzhu jiaotang zhidao gongzuo], China Catholic (Online), 19 April 09.

[91] Hebei Provincial Office for Ethnic and Religious Affairs (Online), "Party Branch First and Second Religious Affairs Offices Convene Symposium on Problems With Wavering Investigations" [Zongjiao yichu, erchu dangzhibu zhaokai chabai wenti taolunhui], 9 December 08.

[92] U.S. Commission on International Religious Freedom (Online), 2009 Annual Report, 1 May 09, 82; Cardinal Kung Foundation (Online), "The Persecution of the Roman Catholic Church," 2007.

[93] Bernardo Cervellera, "Persecution in China as Vatican Meeting on China Opens," AsiaNews (Online), 30 March 09.

[94] Bernardo Cervellera, "Police Arrest Underground Zhengding Bishop Jia Zhiguo," AsiaNews (Online), 31 March 09.

[95] See the Congressional-Executive Commission on China Political Prisoner Database for more information.

[96] Bernardo Cervellera, "Persecution in China as Vatican Meeting on China Opens," AsiaNews (Online), 30 March 09.

[97] "Priest Beaten Inside Mayor's Office," Union of Catholic Asian News (Online), 19 March 09.

[98] Ibid.

[99] Longwan District Party Building Site (Online), "Longwan District Ethnic and Religious Affairs Bureau Announces Achievements of Leadership Ranks" [Longwan qu minzongju lingdao banzi zhengji gongshi], 17 December 08.
[100] Ibid. Just over 10 Catholics from Longwan, in total, succeeded in reaching Sheshan, according to the report.
[101] U.S. Commission on International Religious Freedom (Online), 2009 Annual Report, 1 May 09, 82.
[102] See "Local Governments Target 'Illegal' Worship Sites and 'Illegal' Religious Activities Throughout the Fall," CECC China Human Rights and Rule of Law Update, December 2008, 2.
[103] The United Front Work Department oversees the implementation of Party policy toward China's eight "democratic" political parties, ethnic and religious groups, intellectuals, and entrepreneurs, among other functions.
[104] See "Local Governments Target 'Illegal' Worship Sites and 'Illegal' Religious Activities Throughout the Fall," CECC China Human Rights and Rule of Law Update, December 2008, 2.
[105] Jiangxi Provincial People's Congress (Online), "Jiangxi Provincial People's Government Report on the Local Situation With Managing Religious Affairs According to the Law" [Jiangxi sheng renmin zhengfu guanyu wosheng yifa guanli zongjiao shiwu gongzuo qingkuang baogao], 8 April 09.
[106] Communist Party United Front Work Department of the Dalian Medical University (Online), Opinion Regarding Fully Developing United Front Superiority in Service of Maintaining Growth, Maintaining Stability, and Accelerating Revitalization [Guanyu chongfen fahui tongyi zhanxian youshi wei bao zengzhang, bao wending, cu zhenxing fuwu de yijian], 23 April 09.
[107] Wenzhou Municipality United Front Work Department (Online), Notice on the Wenzhou Municipality Party Committee United Front Work Department's 2008 Annual "United Front Work Innovation Awards and Honarary Mentions" [Zhonggong Wenzhou shiwei tongzhan bu guanyu biaozhang 2008 niandu quanshi 'tongzhan gongzuo chuangxin jiang' he 'tongzhan gongzuo chuangxin guli jiang' de tongbao], issued 1 April 09.
[108] Sheqi County People's Government (Online), "Sheqi County Chinese Communist Party United Front Work Department 2009 Work Points," 30 April 09.
[109] Richard Madsen, "Catholic Revival During the Reform Era," 174 China Quarterly 468, 482 (2003); Richard Madsen, "Chinese Christianity: Indigenization and Conflict," in Chinese Society: Change, Conflict and Resistance, eds. Elizabeth Perry and Mark Selden (New York: Routledge Curzon, 2nd edition, 2003), 280.
[110] Ministry of Public Security (Online), "A Heroic Life Story: Wang Shuncai" [Yinglie shengping shiji: wang shuncai], 21 December 08.
[111] Ibid. The report does not disclose the bishop's identity or provide an explanation of why the same bishop was captured three times.
[112] Ministry of Public Security (Online), "A Heroic Life Story: Wang Shuncai" [Yinglie shengping shiji: wang shuncai], 21 December 08.
[113] Sheqi County People's Government (Online), "Sheqi County Chinese Communist Party United Front Work Department 2009 Work Points" [Zhonggong sheqi xianwei tongzhanbu 2009 nian tongzhan gongzuo yaodian], 30 April 09.
[114] See CECC, 2007 Annual Report, 10 October 07, 96–97, for information on coercion to participate in bishop appointments in previous years.
[115] For more information on the government's continued insistence on independence from the Vatican, see "China 50th Anniversary of 'Self-Elected, Self-Ordained' Bishops Commemorated," Union of Catholic Asian News (Online), 19 December 08. For examples of Papal involvement in bishop selection, see "Bishop Ordinations in 2007 Return to Holy See Involvement," Congressional-Executive Commission on China (Online), 5 May 08.
[116] "China 50th Anniversary of 'Self-Elected, Self-Ordained' Bishops Commemorated," Union of Catholic Asian News (Online), 19 December 08.
[117] "Du Qinglin Speaks at Meeting Commemorating 50th Anniversary of the Self-Elected, Self-Ordained Chinese Catholic Church" [Jinian zhongguo tianzhujiao zixuan zisheng 50 zhounian zuotanhui zhaokai, du qinglin chuxi bing jianghua], Xinhua (Online), 19 December 08.
[118] Bernardo Cervellera, "The Bishop of Beijing, the Vatican, and Compromising with the Patriotic Association," AsiaNews (Online), 3 February 09.
[119] Ibid. The text of the speech was reportedly drafted by Shi Hongxi, the general secretary of the Beijing CPA.
[120] The government's use of such divide and rule tactics has contributed to ongoing tension and division between registered and unregistered Catholics in China. David Willey, "Pope Urges China Reconciliation," BBC (Online), 25 May 09; Richard Madsen, "Chinese Christianity: Indigenization and Conflict," in Chinese Society: Change, Conflict and Resistance, eds. Elizabeth Perry and Mark Selden (New York: Routledge Curzon, 2nd edition, 2003), 280.
[121] The Vatican's instructions designated Jia the primary bishop of Shijiazhuang and Jiang his auxiliary bishop. The Catholic Patriotic Association objected to this arrangement, banned the two bishops from meeting, and placed both under 24-hour police surveillance. U.S. Commission on International Religious Freedom (Online), 2009 Annual Report, 1 May 09, 81; Bernardo Cervellera, "Police Arrest Underground Zhengding Bishop Jia Zhiguo," AsiaNews (Online), 31 March 09.
[122] Shaanxi Provincial Ethnic Affairs Commission and Religious Affairs Bureau (Online), "The Basic Situation for Religion in Shaanxi Province" [Shaanxi sheng zongjiao jiben qingkuang], 4 January 09.
[123] The intention to set the public security agenda for the year was clearly conveyed in the title of the directive: "Main Points for Comprehensive Management of Social Order Work Throughout the Country in 2009" [2009 nian quanguo shehui zhi'an zonghe zhili gongzuo yaodian].

[124] The Committee for Comprehensive Management of Public Security is a creation of the Party Central Committee and is chaired by Politburo Standing Committee member Zhou Yongkang. Central Committee for Comprehensive Management of Public Security, "Main Points for Comprehensive Management of Social Order Work Throughout the Country in 2009" [2009 nian quanguo shehui zhi'an zonghe zhili gongzuo yaodian], reprinted in People's Daily (Online), 1 February 09.

[125] Ian Johnson, "Death Trap: How One Chinese City Resorted to Atrocities To Control Falun Dafa," Wall Street Journal (Online), 26 December 00.

[126] For the Weifang Party Secretary's statement, see "Weifang Municipal Party Committee Convenes (Expanded) Meeting of the Members of the Standing Committee" [Weifang shiwei zhaokai changwei (kuoda) huiyi], People's Daily (Online), 7 November 08.

[127] Gaoyou City Gaoyou Township People's Government (Online), "Gaoyou Township's 'Four Things To Channel Into' Implementation Plan for Guarding Against and Handling Cult Problems" [Gaoyou zhen fangfan he chuli xiejiao wenti 'sige naru' shishi fang'an], 2 March 09.

[128] Ge Shuanglong, "Forecasting the Trends of the Development of Mainland Chinese Cults" [Zhongguo dalu xiejiao fazhan qushi yuce], 22 Journal of the Jilin Public Security Academy, No. 6, 85 (2007).

[129] Wanquan County Party Committee (Online), Wanquan County Launches Acitivies To Deeply Study and Implement the Scientific Development Concept: Brief Report No. 55 [Wanquan xian kaizhan shenru xuexi shijian kexue fazhan guan huodong jianbao di 55 qi], 5 May 09.

[130] Each of the four digits signifies the number of decades that will have elapsed in 2009 since four significant events took place: 6 decades since the founding of the PRC, 5 decades since the Lhasa uprising in Tibet, 2 decades since the Tiananmen crackdown, and 1 decade since the ban on Falun Gong. The presence of two of China's top leaders at the helm of Project 6521, Vice President Xi Jinping and Zhou Yongkang, indicates the importance that the Party assigns to its political "struggle" against Falun Gong. Xi Jinping is also presumed by most experts as the leader most likely to replace Hu Jintao as Party General Secretary and President. Provincial and municipal governments were reportedly required to set up temporary 6521 taskforces led by the local deputy Party secretary and public security chief while county and township authorities were instructed to report their implementation of Project 6521 to the municipal and provincial taskforces. Cary Huang, "Taskforces Set Up To Keep Lid on Protests," South China Morning Post (Online), 28 February 09; Ching Cheong, "China Acts To Defuse 'Crisis Year,'" Singapore Straits Times (Online), 3 March 09; Michael Wines, "China's Leaders See a Calendar Full of Trouble," New York Times (Online), 9 March 09.

[131] Nanming District People's Government (Online), "Xinhua Road Sub-District Opens Meeting To Plan Deployment to Maintain Stability During '4.25' Period" [Xinhua banshichu kaizhan '4.25' qijian weiwen anpai buzhu hui], 30 April 09.

[132] In response, security personnel were placed on rotating duty for 75 consecutive hours around the April 25 anniversary. Shengang Subdistrict Nanhui District People's Government (Online), "Shengang Brief News (2009 No. 8)" [Shengang jianxun (2009 nian 8 qi)], 11 May 09.

[133] Tanggu District People's Government (Online), "Xinhe Residential Community Judicial Office Earnestly Conducts Social Stability Work in the 'June 4' Period" [Xinhe sifasuo renzhen zuohao 'liu si' qijian de shehui wending gongzuo], 11 June 09.

[134] Chenxi County People's Government (Online), "Chenxi County Communist Party Committee 610 Office" [Zhonggong chenxi xianwei 610 bangongshi], 25 June 09. A December 2008 report from Leiyang city in Hunan province breaks down the organizational structure of the 6–10 Office into a "composite group" and an "education group." The "composite group," among other things, is vested with the responsibility for "comprehensive investigation and research," "intelligence information," "protecting secrets and confidential information," and "administrative logistics work." The "education group" focuses on "anti-cult social propaganda work" and the "transformation through reeducation" of "Falun Gong" practitioners. See Leiyang City People's Government (Online), "The 6–10 Office" [610 bangongshi], 29 December 08.

[135] Chenxi County People's Government (Online), "Chenxi County Communist Party Committee 610 Office" [Zhonggong chenxi xianwei 610 bangongshi], 25 June 09.

[136] Chinese Communist Party Committee of Suqian Municipality United Front Work Department (Online), "Central 610 Office Director Li Xiaodong Arrives in Siyang for Investigation and Research on Cult Work" [Zhongyang 610 bangongshi juzhang li xiaodong li si diaoyan xiejiao gongzuo], 8 December 08.

[137] Canglang District Political-Legal Committee of the Chinese Communist Party Committee (Online), "Our District Successfully Carries Out Annual Work Inspection and Evaluation by the Municipal Party Committee 610 Office" [Woqu shunli tongguo shiwei 610 bangongshi niandu gongzuo jiancha kaoping ji yanshou], 25 December 08. For another example of these "anti-cult" projects, in July 2009, officials from the Xuanwu District 6–10 Office in Nanjing municipality inspected and praised a local community for setting up "anti-cult warning and education activity stations," which they suggested would serve as a model for other localities. See Xuanwu District People's Government (Online), "Xuanwu District 610 Office Inspects Zixincheng Community's Anti-Cult Warning Education Activity Stations" [Xuanwu qu 610 bangongshi shicha zixincheng shequ fan xiejiao jingshi jiaoyu huodong zhandian gongzuo], 1 July 09.

[138] Canglang District Political-Legal Committee of the Chinese Communist Party Committee (Online), "Our District Successfully Carries Out Annual Work Inspection and Evaluation by the Municipal Party Committee 610 Office" [Woqu shunli tongguo shiwei 610 bangongshi niandu gongzuo jiancha kaoping ji yanshou], 25 December 08.

[139] The report did not indicate what measures were taken in response to this finding. Qidong City People's Government (Online), "Huilong Township's Situation With Social Stability Work" [Huilong zhen wending gongzuo dongtai], 27 May 09.

[140] Linxiang City People's Government (Online), "Chang'an Subdistrict Goes All Out To Defeat 'Falun Gong' Cult Organization" [Chang'an jiedao banshichu sanzhao licuo 'falun gong' xiejiao zuzhi], 17 October 08.
[141] Xuanwei City People's Government Shuanglong Subdistrict Office, Circular on the Printing and Distribution of "Shuanglong Subdistrict Special Action Implementation Plan for Guarding Against and Striking Against 'Falun Gong'" [Guanyu yinfa "shuanglong jiedao fangfan he daji 'falun gong' zhuanxiang xingdong shishi fang'an" de tongzhi], issued 4 June 08.
[142] Ibid.
[143] Huimin County People's Government (Online), "Work Plan for Implementing Concentrated Rectification of Falun Gong and Other Cult Organizations" [Guanyu dui falun gong ji qita xiejiao zuzhi shishi jizhong zhengzhi de gongzuo fang'an], 27 March 08.
[144] Shashi District People's Government Zhongshan Subdistrict Office (Online), "Huang Yuesheng, Head of the District '610' Office, Visits Zhongshan Subdistrict Office To Inspect and Guide Stability Maintenance Work" [Qu '610' bangongshi zhuren huang yuesheng dao zhongshan jieban jiancha zhidao weiwen gongzuo], 8 March 09.
[145] Xunyang District People's Government (Online), Gather Strength To Build Serenity and Tranquility—Work Report on Xunyang District's Unified Efforts To Create Harmony and Safety [Huiju qiangli zhu xiangning —xunyang qu hexie ping'an lian chuang gongzuo jishi], 11 June 09.
[146] Linzi District People's Government (Online), "Xuegong Subdistrict Performs Stability Work Well" [Xuegong jiedao zuohao wending gongzuo], 1 July 09.
[147] Xuanwei City People's Government Shuanglong Subdistrict Office, Circular on the Printing and Distribution of "Shuanglong Subdistrict Special Action Implementation Plan for Guarding Against and Striking Against 'Falun Gong'" [Guanyu yinfa "shuanglong jiedao fangfan he daji 'falun gong' zhuanxiang xingdong shishi fang'an" de tongzhi], issued 4 June 08.
[148] Zhutai Township People's Government (Online), "Actively Disseminate, Strike Hard Against 'Falun Gong' and Other Illegal Cult Activities" [Jiji xuanchuan yanli daji 'falun gong' deng xiejiao feifa huodong], 19 March 09.
[149] Liuyang City Government Affairs Service Center (Online), "Liuyang City Communist Party Committee's 610 Office Announcement Concerning Rewards for Reporting Cult Activities" [Zhonggong liuyang shiwei 610 bangongshi guanyu dui xiejiao huodong jubao youjiang de gonggao], 3 March 09.
[150] Liuyang City Government Affairs Service Center (Online), "Liuyang City Communist Party Committee's 6–10 Office Issues Open Letter to the Entire City's Cadres and Citizens Concerning 'Upholding Science, Caring for the Family, Cherishing Life, and Opposing Cults'" [Zhonggong liuyang shiwei 610 bangongshi guanyu 'chongshang kexue, guan'ai jiating, zhenxi shengming, fandui xiejiao' zhi quanshi ganbu qunzhong de gongkaixin], 2 April 09.
[151] Wangcang County Anti-Cult Propaganda and Education Net (Online), "An Open Letter From the County Party Committee and County Government to the Entire County's Rural Residents" [Xianwei xianzhengfu zhi quanxian nongmin pengyou de yifeng gongkai xin], 1 April 09.
[152] Bengbu Municipality Yuhui District Justice Bureau (Online), "Bringing Informants Into Effect To Capture Those Who Distribute Leaflets" [Fahui xinxiyuan zuoyong zhuahuo sanfa chuandan xianxing], 27 May 08.
[153] Xinjiang Uyghur Autonomous Region Education Department (Online), "Xinjiang Agricultural University Earnestly Launches Anti-Cult Warning Education Activities" [Xinjiang nongye daxue renzhen kaizhan fan xiejiao jingshi jiaoyu huodong], 7 May 09.
[154] Anhui Provincial Bureau of Education (Online), "Various Schools in Panji District Start a Surge of Anti-Cult Education Activities" [Panji qu ge xuexiao xianqi fan xiejiao jiaoyu huodong gaochao], 30 June 09.
[155] Shawan District Bureau of Education (Online), "Shawan Elementary School Carries Out Anti-Cult Warning Education in a Thoroughgoing Way" [Shawan xiaoxue shenru kaizhan fan xiejiao jingshi jiaoyu], 5 July 09.
[156] Public security officials are also permitted to extend the sentence for up to one year beyond the initial three years. Fu Hualing, "Dissolving Laojiao," China Rights Forum: Rule of Law? No. 1, 2009, 54.
[157] Fu Hualing, "Dissolving Laojiao," China Rights Forum: Rule of Law? No. 1, 2009, 54. International observers estimate that Falun Gong practitioners may constitute as many as half of the total number of Chinese held in RTL facilities. U.S. Commission on International Religious Freedom, 2008 Annual Report, 1 May 2009, 161.
[158] Leeshai Lemish, "The Games Are Over, the Persecution Continues," National Post (Online), 7 October 08.
[159] Chinese Human Rights Defenders (Online), "Re-Education Through Labor Abuses Continue Unabated: Overhaul Long Overdue," 10 February 09, 16. One interviewee remarked that practitioners were often deprived of sleep until they renounced their beliefs and that some were forced to sit on a "tiger bench." According to Falun Gong sources, a "tiger bench" is a small iron bench that is approximately eight inches tall. The victim's hands are tied together behind his/her back while his/her knees are tied down to the bench. Hard objects such as bricks are often inserted under the tied legs to cause the legs to bend upward in a painful manner that sometimes causes the knees to break. CECC staff interviews with two Falun Gong practitioners formerly detained in RTL and now based in the United States confirmed the use of sleep deprivation and solitary confinement in RTL facilities, as well as cases where practitioners are forced to sit stationary on a small stool for up to 18 hours at a time. Other inmates are often placed in the cell and promised a reduced sentence if they ensure that the practitioner does not move from the stool. CECC Staff Interviews.
[160] Harbin Municipal People's Government (Online), "A Few Lessons Learned From Security Work for the Olympic Torch Relay" [Aoyun huoju jieli an'bao gongzuo jidian tihui], 15 August 08.

[161] Nanning Municipal People's Government (Online), "Nanning 2008 Yearbook: Political-Legal Work" [Nanning nianjian 2008: zhengfa gongzuo], 14 November 08.
[162] Pingjiang County Meixian Township People's Government (Online), "Outstanding Work Points, Holistic Planning and Coordinated Development, Accelerate the Pace of the Promotion of Rich Citizens, Strong Township: Meixian Township 2008 Work Summary and 2009 Work Plan" [Tuchu gongzuo zhongdian tongchou xietiao fazhan jiakuai tuijin fumin qiangzhen bufa—meixian zhen 2008 nian gongzuo zongjie he 2009 nian gongzuo jihua], 10 December 08.
[163] Chen Dehua, "Report on the Dazhou Public Security 'Three Foundations' Project" [Dazhou gong'an 'san ji' gongcheng jianshe jishi], Dazhou Political Times (Online), 2 February 09.
[164] Huai'an City People's Government (Online), "Brief Talk on How To Build Harmonious Relations Between the Police and the People in the New Period" [Qiantan ruhe goujian xinshiqi xia de xie jingmin guanxi jianshe], 30 June 09.
[165] CECC, 2008 Annual Report, 31 October 08, 90.
[166] Sichuan Committee of the Chinese People's Political Consultative Conference (Online), "Chen Guanquan, Vice Chairman of the Sichuan Provincial Chinese People's Political Consultative Conference Leads the Committee for Handling Proposals To Inspect the Provincial Xinhua Reeducation Through Labor Center" [Sheng zhengxie fu zhuxi chen guanquan shuai ti'an weiyuanhui shicha sheng xinhua laojiaosuo], 8 January 09.
[167] Bureau of Justice of the Inner Mongolia Autonomous Region (Online), "Hohhot Women's Reeducation Through Labor Center Convenes a Special Theoretical Seminar on Reeducating Falun Gong Practitioners" [Huhehaote nuzi laojiaosuo zhaokai shoujiao 'falun gong' laijiao renyuan zhuanti lilun yantaohui], 22 June 09.
[168] Jiangxi Provincial Reeducation Through Labor Management Bureau (Online), "Jiangxi Provincial Reeducation Through Labor System's Brief Report on Special Education Activities for Implementing the 'Chief Standard'"[Jiangxi sheng laojiao xitong guanche luoshi 'shouyao biaozhun' zhuanti jiaoyu huodong jianbao], 19 June 09.
[169] Tailai County People's Government (Online), County Political-Legal Committee Assistant Secretary Comrade Zhang Xinguo's Investigative Research Report [Xian zhengfawei changwu fushuji zhang xinguo tongzhi diaoyan baogao], 1 July 09.
[170] Amnesty International, 2008 Annual Report for China, 30 July 08, 4.
[171] Michael Sheridan, "Yu Zhou Dies as China Launches Pre-Olympic Purge of Falun Gong," Times of London (Online), 20 April 08; Andrew Jacobs, "China Still Presses Crusade Against Falun Gong," New York Times (Online), 28 April 09; "Manipulation of the Criminal Law To Penalize 'Cults' Continues in the Case of Painter and Popular Musician," CECC China Human Rights and Rule of Law Update, No. 1, 2009, 5.
[172] "Qingdao Tries Several Falun Gong Practitioners, Lu Xueqin Confesses Under Torture and Is Crippled" [Qingdao jiang shenli duo ming falun gong xueyuan lu xueqin bei xingxun bigong zhican], Radio Free Asia (Online), 9 March 09; "Three Cases of Persecution of Falun Gong Practitioners in Qingdao" [San ming Qingdao falun gong xueyuan bei pohai anli], Radio Free Asia (Online), 11 March 09.
[173] "Falun Gong Practitioner Killed Within Days of Arrest," Falun Dafa Information Center (Online), 7 August 09.
[174] The security agents reportedly were affiliated with the Wuhou District office of the Committee on the Comprehensive Management of Public Security. Chinese Human Rights Defenders (Online), "Beijing Lawyer Cheng Hai Assaulted by Officials for Representing Falun Gong Practitioner," 14 April 09; Michael Wines, "China Said To Threaten Licenses of Human Rights Lawyers," New York Times (Online), 28 May 09.
[175] Reeducation through labor authorities where Jiang was held cremated his body without the family's consent and said that he died of a heart attack, although the autopsy showed that he had three broken ribs. Human Rights in China (Online), "Beijing Lawyers Beaten for Representing Falun Gong Case," 13 May 09; Michael Wines, "China Said To Threaten Licenses of Human Rights Lawyers," New York Times (Online), 28 May 09; Leslie Hook, "Doomsday for Chinese Human-Rights Lawyers?" Wall Street Journal (Online), 27 May 09; "Lawyers Beaten in Chongqing: Colleagues Protest in Beijing With Horizontal Banner" [Beijing lushi Chongqing bei ou tonghang la heng'e kangyi], Ming Pao (Online), 18 May 09.
[176] Human Rights in China (Online), "Beijing Lawyers Beaten for Representing Falun Gong Case," 13 May 09.
[177] It was Gao's investigation and documentation of the torture of Falun Gong practitioners that most drew the ire of the government. For Gao's documentation of torture of Falun Gong practitioners by public security officials and the 6–10 Office, see Gao Zhisheng, A China More Just (San Diego: Broad Press, 2007). Gao's record of detention is searchable through the Congressional-Executive Commission on China's Political Prisoner Database. Jerome A. Cohen, "Beijing Must Reveal Fate of Human Rights Lawyer," South China Morning Post (Online), 19 March 09; China Human Rights Lawyers Concern Group (Online), "Press Invitation: Demand Information About Beijing Human Rights Lawyer Gao Zhisheng's Whereabouts" [Caifang tongzhi: zaici yaoqiu jiaodai beijing weiquan lushi gao zhisheng xialuo], 15 June 09; Human Rights in China (Online), "Wife of Abducted Rights Defense Lawyer Gao Zhisheng Requests Urgent Help From U.S. Congress in Open Letter," 23 April 09.
[178] Jerome A. Cohen and Eva Pils, "The Disappearance of Gao Zhisheng," Wall Street Journal Asia (Online), 8 February 09; Human Rights in China (Online), "Torture Account by Missing Rights Defense Lawyer Gao Zhisheng," 8 February 09.
[179] ChinaAid (Online), "A Letter From the Twenty-first Century Dungeon—Over Fifty Days of Endless Inhumane Tortures in the Hands of the Chinese Government," 18 February 09.
[180] Ibid.; Human Rights in China (Online), "Torture Account by Missing Rights Defense Lawyer Gao Zhisheng," 8 February 09; Jerome A. Cohen, "Beijing Must Reveal Fate of Human Rights Lawyer," South China Morning Post (Online), 19 March 09.
[181] Wei's reeducation through labor sentence was later reduced to 30 days of administrative detention, and he and his wife were released on bail in late March. China Human Rights Law-

yers Concern Group (Online), "Heilongjiang Lawyer Wei Liangyue Is Ordered To Serve Reeducation Through Labor for Taking Part in a Falun Gong Gathering" [Heilongjiang lushi wei liangyue yin canyu falungong xueyuan juhui chuyi laojiao], 26 March 09; "Heilongjiang Lawyer Wei Liangyue Sentenced to Reeducation Through Labor for Participating in a Falun Gong Gathering" [Heilongjiang lushi wei liangyue yin canyu falun gong juhui bei laojiao], Radio Free Asia (Online), 26 March 09; China Human Rights Lawyers Concern Group (Online), "Breaking News: Heilongjiang Human Rights Lawyer Wei Liangyue and His Wife Are Released and Have Returned Home" [Zuixin xiaoxi: heilongjiang weiquan lushi wei liangyue yu qizi huoshi huijia], 1 April 09.

[182] Chinese Human Rights Defenders (Online), "Three Lawyers Detained for Defending Falun Gong Practitioners," 17 July 09.

[183] Ibid. Wang is reportedly being held at the Dalian Municipal Public Security Bureau Detention Center on charges related to Article 300 of the PRC Criminal Law, which prohibits "using a cult organization to sabotage the implementation of the law." For more information on Article 300 of the Criminal Law, see "Manipulation of the Criminal Law to Penalize 'Cults' Continues in Case of Painter and Popular Musician," CECC China Human Rights and Rule of Law Update, No. 1, 2009, 5.

[184] Alexa Olesen, "China Lawyers in Touchy Cases Could Be Disbarred," Associated Press (Online), 27 May 09.

[185] Michael Wines, "China Said To Threaten Licenses of Human Rights Lawyers," New York Times (Online), 28 May 09.

[186] These lawyers include: Jiang Tianyong, Li Heping, Li Xiongbing, Li Chunfu, Wang Yajun, Guo Shaofei, Cheng Hai, Tang Jitian, Xie Yanyi, Zhang Xingshui, Yang Huiwen, Tong Chaoping, Liu Guitao, Wen Haibo, Liu Wei, Zhang Lihui, Zhang Chengmao, Wei Liangyue, Sun Wenbing, Liu Shihui, and Wang Yonghang. See China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Prepared Written Statement Submitted to the Commission by Bob (Xiqiu) Fu, President of ChinaAid; Chinese Human Rights Defenders (Online), "Chinese Human Rights Lawyers Face Oppression, Many Still Unable To Work" [Zhongguo renquan lushi zao daya dadu reng buneng zhiye], 1 July 09; Chinese Human Rights Defenders (Online), "Licenses of 18 Rights Lawyers Still Not Renewed a Month After Deadline," 2 July 09; Chinese Human Rights Defenders (Online), "China Human Rights Briefing August 17–23, 2009," 26 August 09; Chinese Human Rights Defenders (Online), "Debarred Lawyer Tortured and Arrested in Northeastern China," 27 August 09.

[187] Luo Jieqi, "Controversy Over the Shutdown and Punishment of Beijing Yitong Law Firm" [Beijing yitong lusuo tingye chuze zhengyi], Caijing (Online), 4 March 09; Peter Ford, "China Cracks Down on Human Rights Lawyers," Christian Science Monitor (Online), 25 February 09; ChinaAid (Online), "Yitong Law Firm Closed for Defending Human Rights Cases," 6 March 09.

[188] "Numerous Lawyers Protest Chengdu Authorities Unlawful Handling of 'Zhong Fangqiong' Case" [Duoming lushi kangyi chengdu dangju weifa chuli 'zhong fangqiong' an], Radio Free Asia (Online), 15 January 09.

[189] Ibid.

[190] Legislative Affairs Office of the State Council (Online), Opinion on the Implementation of the 'Autumn Wind Operation' To Strike Hard Against Crime, Formulated and Launched by the Harbin Municipal Bureau of Justice [Haerbin shi sifaju zhiding kaizhan daji xingshi fanzui "qiufeng xingdong" gongzuo de shishi yijian], issued 23 October 08.

[191] "Two Falun Gong Practitioners in Hubei Are Brought to Trial" [Hubei liangming falun gong xueyuan beishen], Radio Free Asia (Online), 15 January 09.

[192] "Trial Opens on Shenyang Falun Gong Case, Lawyers Allege Discrimination and Interference" [Shenyang falun gong an kaiting lushi biaoshi shou qishi shou ganyu], Radio Free Asia, reprinted in Chinese Human Rights Defenders (Online), 10 February 09; "Not Guilty—Rights Lawyers Defending Falun Gong," China Scope (Online), 1 July 09.

[193] "Lawyers Stop Judicial Proceeding To Protest Qingdao Court's Unlawful Trial of Falun Gong Practitioners" [Lushi bating kangyi qingdao fayuan weifa shenli falungong xueyuan], Radio Free Asia (Online), 10 March 09; "Qingdao Tries Several Falun Gong Practitioners, Lu Xueqin Confesses Under Torture and Is Crippled" [Qingdao jiang shenli duo ming falun gong xueyuan lu xueqin bei xingxun bigong zhican], Radio Free Asia (Online), 9 March 09; "Three Cases of Persecution of Falun Gong Practitioners in Qingdao" [San ming qingdao falun gong xueyuan bei pohai anli], Radio Free Asia (Online), 11 March 09.

[194] "More Chinese Lawyers Defy Pressure To Defend Falun Gong Practitioners" [Zhongguo gengduo lushi buwei yali wei falun gong xueyuan bianhu], Radio Free Asia (Online), 4 November 08.

[195] Liaoyuan Intermediate People's Court (Online), "Xi'an District Court Successfully Completes Investigation Involving Cult Case" [Xi'an qu fayuan chenggong shenjie yiqi she xiejiao anjian], 10 February 09.

[196] The directive also authorizes the 6–10 Office to gather personal information about attorneys and law firms that accept Falun Gong cases. "Prevention and Control Requirements for Responding to Changes and Trends Regarding the Enemy's Situation" [Guanyu yingdui diqing dongxiang de fangkong yaoqiu], Boxun (Online), 10 February 09; "Not Guilty—Rights Lawyers Defending Falun Gong," China Scope (Online), 1 July 09.

[197] See China's Religious Communities—Islam—Islam in the Xinjiang Uyghur Autonomous Region in this section for details. For a detailed report based on an investigation in 2007 of Muslim communities in southeastern China, including information on government oversight of sermons, religious leaders, and establishment of mosques, see "Scan of Islamic Work in Southeastern Coastal Areas" [Dongnan yanhai diqu yisilanjiao gongzuo saomiao], Chinese Religions (Online), 25 June 09.

[198] "Islamic Association of China Holds Magnificent Qurban Reception" [Zhongguo yisilanjiao xiehui juxing shengda gu'erbangjie zhaodaihui], Chinese Religions (Online), 9 December 08.

[199] CECC, 2006 Annual Report, 20 September 06, 89.

[200] "Islamic Association of China Proposes Launching 'Establishing Harmonious Mosques' Activity" [Zhongguo yixie changyi kaizhan "chuangjian hexie qingzhensi" huodong], Chinese Religions (Online), 8 June 09.

[201] Qinghai People's Government Counselor's Office (Online), "Some Suggestions on Appropriately Dealing With the Present Problem of Islamic Sects" [Guanyu tuoshan chuli dangqian yisilan jiaopai wenti de jidian jianyi], 19 January 09. The Regulation on Religious Affairs mandates the establishment of democratic management committees within registered venues for religious activities. Regulation on Religious Affairs [Zongjiao shiwu tiaoli], issued 30 November 04, effective 1 March 05, art. 17.

[202] See, e.g., "Haidian District Strengthens Ahung Training" [Haidian qu jiaqiang ahong duiwu peixun], China Ethnicities News (Online), 24 April 09; Guazhou County (Gansu) Government (Online), "Guazhou County Holds County-Wide Islamic Personnel Training Class" [Guazhou xian juban quan xian yisilanjiao jiaozhi renyuan peixun ban], 23 October 08. See also China's Religious Communities—Islam—Islam in the Xinjiang Uyghur Autonomous Region in this section for more information on political training.

[203] See, e.g., "Haidian District Strengthens Ahung Training" [Haidian qu jiaqiang ahong duiwu peixun], China Ethnicities News (Online), 24 April 09.

[204] See, e.g., "Xinjiang Party Chief Slashes Riot Which Kills 140," Xinhua (Online), 7 July 09; "Police Have Evidence of World Uyghur Congress Masterminding Xinjiang Riot," Xinhua (Online), 7 July 09; Ministry of Foreign Affairs (Online), "Foreign Ministry Spokesperson Qin Gang's Regular Press Conference on July 14, 2009," 14 July 09.

[205] See, e.g., "Chen Guangyuan: 7.5 Incident Violates Spirit of Islam" [Chen guangyuan: "7–5" shijian weibei yisilanjiao jingshen], Chinese Religions (Online), 8 July 09; "Personages From Jilin Province Islamic Circles Hold Forum on Vehemently Condemning '7–5' Serious Violent Criminal Incident of Beating, Smashing, Looting, and Burning" [Jilin sheng yisilanjiao jie renshi juxing zuotan qianglie qianze "7–5" da za qiang shao yanzhong baoli fanzui shijian], China Ethnicities News (Online), 16 July 09.

[206] For an overview of regulations governing pilgrimage activities, see CECC, 2007 Annual Report, 10 October 2007, 99.

[207] State Ethnic Affairs Commission (Online), "Hajis Return, Discuss Haj" [Haji guilai hua chaojin], 6 January 09.

[208] A 1996 policy document from the Central Committee of the Communist Party identifies ethnic separatism and "illegal religious activities" as the "main dangers to Xinjiang's stability." The document is cited in "Nur Bekri's Speech at Autonomous Region Cadre Plenary Session" [Nu'er baikeli zai zizhiqu ganbu dahui shang de jianghua], Tianshan Net (Online), 11 September 08, also available in translation by the Open Source Center, 29 September 08. "Religious extremism" (also described as "extremism") forms one of the "three forces," along with terrorism and separatism, that Xinjiang Uyghur Autonomous Region authorities also identify as threats to the region's stability. For information on the "three forces" and use of the term to mean religious extremism, see, e.g., Kalpin (Keping) County Government (Online), "Question and Answer on Reeducation in Battle Against Separatism and Uncovering, Condemning Terrorist Criminal Activities" [Fan fenlie douzheng zaijiaoyu, jie pi baoli kongbu zuixing huodong zhishi wenda], 11 November 08 (cached page); Human Rights Watch and Human Rights in China (Online), "Devastating Blows: Religious Repression of Uighurs in Xinjiang," April 2005, 69 (pagination follows "text-only" pdf download of this report) (describing the "three forces" to include religious extremism); "Establishing a Harmonious Society Cannot Do Without an Environment of Good Social Order" [Goujian hexie shehui libukai lianghao de shehui zhian huanjing], Xinjiang Daily, reprinted in Tianshan Net (Online), 13 January 06 (discussing religious extremism in the context of the "three forces").

[209] See examples within as well as a document defining "23 types of illegal religious activities," such as "letting students pray," conducting certain religious practices pertaining to marriage and divorce, holding private religious instruction classes, "distorting religious doctrine," "fabricating history," "inciting religious fanaticism" and advocating "Pan-Islamism" and "Pan-Turkism." See, e.g., "Autonomous Region Definitions Concerning 23 Kinds of Illegal Religious Activity" [Zizhiqu guanyu 23 zhong feifa zongjiao huodong de jieding], 25 February 08, numbers 3, 4, 5, 20. For information on human rights standards, see, e.g., Universal Declaration of Human Rights, adopted and proclaimed by General Assembly resolution 217A (III) of 10 December 48, art. 18; International Covenant on Civil and Political Rights (ICCPR), adopted by General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 18; International Covenant on Economic, Social and Cultural Rights adopted by General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 3 January 76, art. 13(3) (requiring States Parties to "ensure the religious and moral education of . . . children in conformity with [the parents'] own convictions"); Convention on the Rights of the Child, adopted and opened for signature, ratification, and accession by General Assembly resolution 44/25 of 20 November 89, entry into force 2 September 90, art. 14; Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, proclaimed by General Assembly resolution 36/55 of 25 November 81. See General Comment No. 22 to Article 18 of the ICCPR for an official interpretation of freedom of religion as articulated in the ICCPR. General Comment No. 22: The Right to Freedom of Thought, Conscience, and Religion (art. 18), 30 July 93, para. 1.

[210] "Nur Bekri's Speech at Autonomous Region Cadre Plenary Session" [Nu'er baikeli zai zizhiqu ganbu dahui shang de jianghua], Tianshan Net (Online), 11 September 08, also available in translation by the Open Source Center, 29 September 08.

[211] Ibid.

[212] Ibid.

[213] "Xinjiang Representatives, While Answering Questions Posed by Chinese and Foreign Media Correspondents, Indicate Firm Confidence in Responding to the Challenge of Battling To Accelerate Development and Safeguard Stability" [Xinjiang daibiao huida zhongwai meiti jizhe tiwen shi biaoshi jianding xinxin yingdui tiaozhan jiakuai fazhan weihu wending], Tianshan Net

(Online), 7 March 09. See an English-language description of Nur Bekri's remarks in "Chinese Official Warns of 'More Severe' Security Situation in Xinjiang," Xinhua (Online), 6 March 09.

[214] Official measures have targeted such things as the observance of Muslim holidays, religious pilgrimages, Islamic texts, and the wearing of head coverings. See examples within.

[215] See, e.g., "Xinjiang Authorities Continue Security Measures, Propaganda Campaigns," CECC China Human Rights and Rule of Law Update, December 2008, 2; "Xinjiang Authorities Announce Heightened Security Threat, Strengthen Security Capacity and Continue Propaganda Campaigns," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 4.

[216] "Shawket Imin Calls on Grassroots United Front Cadres To Contribute to Stability and Development" [Xiaokaiti yiming yaoqiu jiceng tongzhan ganbu wei wending fazhan zuo gongxian], Xinjiang Daily (Online), 17 October 08.

[217] "Hoten District Carries Out in Deep Way Special Rectification Work on Illegal Religious Activities" [Hetian diqu shenru kaizhan feifa zongjiao huodong zhuanxiang zhili gongzuo], Hoten Peace Net (Online), 27 February 09.

[218] "Yeken County United Front and Ethnic and Religious Affairs Departments Launch Forum for Chinese People's Political Consultative Conference Members, People's Congress Representatives From Religious Circles" [Shache xian tongzhan min zong bumen zhaokai zongjiaojie renda daibiao, zhengxie weiyuan zuotanhui], Xinjiang Peace Net (Online), 24 February 09.

[219] "Ghulja City Launches Propaganda Education Activities on 'Weakening Religious Consciousness, Upholding a Civilized and Healthy Life'" [Yining shi kaizhan "danhua zongjiao yishi, chongshang wenming jiankang shenghuo" xuanchuan jiaoyu huodong], Fazhi Xinjiang (Online), 18 March 09.

[220] "Awat County Intelligence Information Network Platform Gets Initial Results" [Awati xian qingbao xinxi wangluo pingtai chu xian chengxiao], Xinjiang Peace Net (Online), 17 March 09.

[221] "Uyghurs Targeted Over Prayers," Radio Free Asia (Online), 2 April 09.

[222] Uyghur American Association (Online), "Security Forces Clamp Down in Kashgar and Hotan on the Eve of Sensitive Anniversary," 8 April 09.

[223] "Uyghur Men Sentenced," Radio Free Asia (Online), 5 June 09; "China Harshly Punishes 12 Uyghurs in Ghulja Arrested During Olympics" [Xitay olimpik mezgilide ghuljida tutulghan 12 neper uyghurni qattiq jazalidi], Radio Free Asia (Online), 2 June 09.

[224] Ibid.

[225] The report from Awat county, Aqsu district, discussed above, which referred to investigating cases of "illegal religious activity," also described two "masked" (*mengmian*) individuals in a possible reference to women who wear full head coverings. "Awat County Intelligence Information Network Platform Gets Initial Results" [Awati xian qingbao xinxi wangluo pingtai chu xian chengxiao], Xinjiang Peace Net (Online), 17 March 09. The same term (mengmian) was used in a 2007 report describing government success in getting 49 women who covered their faces (mengmian funu) to remove their veils. Yeken County Government (Online), "Yingwusitang Township Strengthens Management of Religious Affairs, 49 Women With Covered Faces Take Initiative To Remove Veils" [Yingwusitang xiang jiaqiang zongjiao shiwu guanli 49 ming mengmian funu zhudong jiediao miansha], 10 August 07. According to the Xinjiang government-designated 23 kinds of "illegal religious activities," wearing a veil is not illegal but "compelling" women to veil is illegal. "Autonomous Region Definitions Concerning 23 Kinds of Illegal Religious Activity" [Zizhiqu guanyu 23 zhong feifa zongjiao huodong de jieding], 25 February 08, number 2.

[226] Zhang Jijun, "Toqsu County's Grasp of Stability Work Has Bright Spots" [Xinhe xian zhua wending gongzuo you liang dian], Xinjiang Peace Net (Online), 7 April 09.

[227] Xinjiang Uyghur Autonomous Region People's Political Consultative Conference (Online), "Xinjiang Uyghur Autonomous Region 10th People's Consultative Conference, 2nd Meeting, Proposal Number 927" [Xinjiang weiwuer zizhiqu zhengxie shijie erci huiyi ti'an di 927 hao], 23 December 08. See also analysis in "Xinjiang Authorities Train, Seek To Regulate Muslim Women Religious Figures," CECC China Human Rights and Rule of Law Update, No. 4, 2009, 2.

[228] Peyziwat (Jiashi) County Government (Online), "5th Issue 'Trends News Flash'" ["Dongtai xinxi kuaibao" di wu qi], 24 April 09; Bayangol Mongol Autonomous Prefecture Government (Online), "Autonomous Prefecture Soundly Launches Third Round of Patriotic Religious Figure Training" [Zizhizhou zhashi kaizhan di san lun aiguo zongjiao renshi peixun], 4 June 09. See also analysis in "Xinjiang Authorities Train, Seek To Regulate Muslim Women Religious Figures," CECC China Human Rights and Rule of Law Update, No. 4, 2009, 2.

[229] See, e.g., Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09 and citations that follow.

[230] "Qorghas County Uses 3 Measures To Improve Education Work for Participants in Organized Pilgrimages" [Huocheng xian san xiang cuoshi zuohao you zuzhi chaojin renyuan de jiaoyu gongzuo], Ili Peace Net (Online), 11 November 08.

[231] "Onsu County Strengthens Management of Tracking Returnees From Haj" [Wensu xian jiaqiang dui chaojin huiguo renyuan de genzong guanli], Xinjiang Kunlun Net (Online), 30 March 09.

[232] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09. Radio Free Asia cited sources reporting that some Uyghurs are unable to participate in official pilgrimages due to political screening and corruption in the application process. "Uyghurs Encountering Obstacles to All Routes To Go on Haj" [Uyghurlarning hejge berishtiki barliq yolliri tosalghugha uchrimaqta], Radio Free Asia (Online), 6 May 09.

[233] CECC, 2008 Annual Report, 31 October 08, 81; "Local Governments in Xinjiang Continue Religious Repression During Ramadan," Congressional-Executive Commission on China (Online), 15 January 08.

[234] Uyghur American Association (Online), "Uyghur American Association Calls on Chinese Authorities To Guarantee the Safety of All People in East Turkestan in the Wake of New Unrest," 3 September 09. Amid blocked Web sites following the July 5 demonstration in Urumqi, the Commission was unable to find reports from XUAR local government Web sites, as found in previous years, on specific continued controls during Ramadan in 2009, though such controls would be consistent with ongoing campaigns throughout the year to curb "illegal religious activities" (such as children's participation in religious activities) and weaken aspects of religious practice and observance. In addition, a document issued in 2008 enumerating "illegal religious activities" in the region includes among prohibited activities letting students fast for Ramadan. "Autonomous Region Definitions Concerning 23 Kinds of Illegal Religious Activity" [Zizhiqu guanyu 23 zhong feifa zongjiao huodong de jieding], 25 February 08, number 5.

For official media reports describing basic information on the holiday's commencement in the XUAR, see, e.g., "Urumqi Welcomes First Day of Ramadan Amid Tranquility" [Wulumuqi zai pingjing zhong yinglai zhaiyue di yi tian], Xinhua, reprinted in United Front Work Department (Online), 21 August 09; "Happiness, Unity, and Mutual Aid—Information on Ramadan for Urumqi's Muslim Households" [Xingfu, tuanjie, huzhu—wulumuqi musilin jiating zhaijie jianwen], Xinhua, reprinted in United Front Work Department (Online), 22 August 09.

[235] "Latest Uygur Rumors 'Untrue': Official," Global Times (Online), 28 August 09.

[236] "Nur Bekri's Speech at Autonomous Region Cadre Plenary Session" [Nu'er baikeli zai zizhiqu ganbu dahui shang de jianghua], Tianshan Net (Online), 11 September 08, also available in translation by the Open Source Center, 29 September 08.

[237] "Our Region Launches 3rd Round of Patriotic Religious Personnel Training" [Wo qu qidong di san lun aiguo zongjiao renshi peixun gongzuo], Xinjiang Daily (Online), 26 February 09.

[238] Ibid.

[239] "Nur Bekri's Speech at Autonomous Region Cadre Plenary Session" [Nu'er baikeli zai zizhiqu ganbu dahui shang de jianghua], Tianshan Net (Online), 11 September 08, also available in translation by the Open Source Center, 29 September 08. For remarks from XUAR Party chairperson Wang Lequan stressing the importance of oversight and training of "patriotic religious personages," see, e.g., United Front Work Department (Online), "Xinjiang Autonomous Region Communist Party Committee Secretary Puts Forth Demands for Improving Religious Work in Xinjiang" [Xinjiang zizhiqu dangwei shuji dui zuohao xinjiang zongjiao gongzuo tiqu yaoqiu], 18 September 08.

[240] "Yeken County United Front and Ethnic and Religious Affairs Departments Launch Forum for Chinese People's Political Consultative Conference Members, People's Congress Representatives From Religious Circles" [Shache xian tongzhan min zong bumen zhaokai zongjiaojie renda daibiao, zhengxie weiyuan zuotanhui], Xinjiang Peace Net (Online), 24 February 09. For another example of local-level political training for religious personnel, see "Jing County Holds First Period of 2009 Training for Religious Personages" [Jinghe xian juban 2009 nian di yi qi zongjiao renshi peixun ban], Xinjiang Peace Net (Online), 12 January 09.

[241] Mireguli Wu, "Bring Into Play Bridge Function, Uphold Social Stability" [Fahui qiaoliang zuoyong weihu shehui wending], Xinjiang Daily, 18 July 09 (Open Source Center, 9 August 09).

[242] While "Sweep Away Pornography and Strike Down Illegal Publications" campaigns targeting a range of materials exist throughout China, authorities in the Xinjiang Uyghur Autonomous Region target religious and political materials also as part of broader controls in the region over Islamic practice, over other expressions of ethnic identity, especially among the Uyghur population, and over expressions of political dissent. "Xinjiang Government Strengthens Campaign Against Political and Religious Publications," CECC China Human Rights and Rule of Law Update, February 2008, 4. For general information on developments in late 2008 and 2009, see "Xinjiang Authorities Block, Punish Free Expression," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 3.

[243] Jerenbulaq District, Qaramay Municipal Government (Online), "Situation About Examination and Confiscation of Illegal Religious Books Like 'The Truth About the Holy Teachings'" ["Shengjiao zhenxiang" deng zongjiao lei feifa shuji cha jiao qingkuang], 29 February 09.

[244] Urumqi Municipal Government (Online), "Urumqi Launches Supervision and Investigation Regarding Safety in Production in Cultural Market and 'Sweep Away Pornography and Illegal Publications' in Publishing Market" [Wulumuqi kaizhan wenhua shichang anquan shengchan ji chubanwu shichang "saohuang dafei" ducha], 10 February 09; "Hoten District Carries Out Investigation of Conditions Concerning Development of Special Rectification Work on Illegal Religious Activities" [Hetian diqu dui feifa zongjiao huodong zhuanxiang zhili gongzuo kaizhan qingkuang jinxing ducha], Xinjiang Peace Net (Online), 4 March 09.

[245] "Our Region To 'Enlarge Establishment' of Combined Law Enforcement Ranks" [Wo qu jiang "kuobian" wenhua shichang zonghe zhifa duiwu], Xinjiang Daily (Online), 2 March 09.

[246] See, e.g., "Qizilsu Prefecture Gives Greetings to Religious Personages During Spring Festival" [Ke zhou chunjie qijian dui aiguo zongjiao renshi jinxing weiwen], Xinjiang Peace Net (Online), 2 February 09; "Yeken County United Front and Ethnic and Religious Affairs Departments Launch Forum for Chinese People's Political Consultative Conference Members, People's Congress Representatives From Religious Circles" [Shache xian tongzhan min zong bumen zhaokai zongjiaojie renda daibiao, zhengxie weiyuan zuotanhui], Xinjiang Peace Net (Online), 24 February 09.

[247] Zhu Ketong, "Regulation on Protection of Minors Submitted for Deliberation, School Punishment To Be Removed From Record" [Xinjiang weichengnianren baohu tiaoli tijiao renda shenyi xiao chufen jiang chechu dang'an], Urumqi Online (Online), 1 June 09; "Xinjiang: Legislation Strengthens Protection for Minors, Intensifies Household Duty To Protect" [Xinjiang: lifa jiaqiang dui weichengnianren baohu qianghua jiating baohu zeren], Legal Daily, reprinted in Ministry of Commerce (Online), 8 June 09. The Xinjiang government is also reportedly revising its regulation on the management of religious affairs. "Xinjiang Plans To Draft Two Regulations on Ethnic Unity Education and Anti-Separatism Battle" [Xinjiang ni zhiding minzu tuanjie

jiaoyu he fan fenlie douzheng liang fagui], People's Daily, reprinted in China Ethnicities News (Online), 25 July 09.

[248] Legal measures from the region, unseen elsewhere in China, forbid parents and guardians from allowing minors to engage in religious activity. Xinjiang Uyghur Autonomous Region Implementing Measures for the Law on the Protection of Minors [Xinjiang weiwuer zizhiqu shishi "weichengnianren baohufa" banfa], issued 25 September 93, effective 25 September 93, art. 14. No other provincial or national regulation on minors or on religion contains this precise provision. Human Rights Watch and Human Rights in China (Online), "Devastating Blows: Religious Repression of Uighurs in Xinjiang," April 2005, 58 (pagination follows "text-only" pdf download of this report). See also "Draft Regulation in Xinjiang Could Strengthen Legal Prohibitions Over Children's Freedom of Religion," CECC China Human Rights and Rule of Law Update, No. 4, 2009, 3.

[249] Zhu Ketong, "Regulation on Protection of Minors Submitted for Deliberation, School Punishment To Be Removed From Record" [Xinjiang weichengnianren baohu tiaoli tijiao renda shenyi xiao chufen jiang chechu dang'an], Urumqi Online (Online), 1 June 09; "Xinjiang: Legislation Strengthens Protection for Minors, Intensifies Household Duty To Protect" [Xinjiang: lifa jiaqiang dui weichengnianren baohu qianghua jiating baohu zeren], Legal Daily, reprinted in Ministry of Commerce (Online), 8 June 09.

[250] "Hoten District Carries Out in Deep Way Special Rectification Work on Illegal Religious Activities" [Hetian diqu shenru kaizhan feifa zongjiao huodong zhuanxiang zhili gongzuo], Hoten Peace Net (Online), 27 February 09.

[251] "Ghulja City Launches Propaganda Education Activities on 'Weakening Religious Consciousness, Upholding a Civilized and Healthy Life'" [Yining shi kaizhan "danhua zongjiao yishi, chongshang wenming jiankang shenghuo" xuanchuan jiaoyu huodong], Fazhi Xinjiang (Online), 18 March 09.

[252] "Maralbéshi County Sanchakou Township Elementary Schools Carry Out in Deep-Going Way Education Activities on the 'Three Upholds, Two Opposes'" [Bachu xian sanchakou zhen xiaoxue shenru kaizhan "sanwei liangfan" jiaoyu huodong], Xinjiang Peace Net (Online), 11 November 08.

[253] In Chinese, the Three-Self Patriotic Movement and the China Christian Council are commonly referred to as the lianghui (two organizations), which reflects the fact that the top leadership and general functions of the two often overlap.

[254] Daniel H. Bays, "Chinese Protestant Christianity Today," 174 China Quarterly 488, 492 (2003); Maria Hsia Chang, Falun Gong: The End of Days (New Haven: Yale University Press, 2004), 141.

[255] The term in Chinese is "shenxue sixiang jianshe."

[256] Cao Shengjie, "Run the Church Well According to the Three-Self Principle, Play an Active Role in Building a Harmonious Society: Work Report of the Seventh NCCC," 21 Chinese Theological Review 5, 22–23 (2008).

[257] State Administration for Religious Affairs (Online), "Chinese Protestant Church Launches 10th-Year Summary Report on Theological Construction" [Zhongguo jidujiao kaizhan shenxue sixiang jianshe shinian zongjie baogao], 19 November 08.

[258] Party School of the Chinese Communist Party Committee of the Xinjiang Uyghur Autonomous Region (Online), "The History of Protestantism and the History of Chinese Protestantism" [Jidujiao lishi ji zhongguo jidujiao de lishi], 29 April 09.

[259] Wang Zuo'an, "What Kind of Christianity Do We Hope For? Address at the Conference on the 'Missionary Movement and the Chinese Church,'" 21 Chinese Theological Review 94, 97 (2008).

[260] Anping Xiao, "Theological Change and the Adaptation of Christianity to Socialist Society," 16 Chinese Theological Review 10, 12 (2001); K.H. Ting, "Adjustments in Theology Are Necessary and Unavoidable," 17 Chinese Theological Review 118, 121 (2003).

[261] Guangdong Provincial Ethnic and Religious Affairs Commission (Online), "Speech at the 50th Anniversary Celebration of the Establishment of the Protestant Three-Self Patriotic Movement of Guangdong Province" [Zai guangdongsheng jidujiao sanzi aiguohui chengli 50 zhounian qingzhu dahui shang de jianghua], 5 September 08.

[262] Wang Zuo'an, "What Kind of Christianity Do We Hope For? Address at the Conference on the 'Missionary Movement and the Chinese Church,'" 21 Chinese Theological Review 94, 97 (2008).

[263] Yang Donglong, "Theological and Cultural Reflections on the Relationship Between Church and Society in China," 17 Chinese Theological Review 64, 72 (2003).

[264] Cao Shengjie, "Run the Church Well According to the Three-Self Principle, Play an Active Role in Building a Harmonious Society: Work Report of the Seventh NCCC," 21 Chinese Theological Review 5, 26 (2008).

[265] State Administration for Religious Affairs (Online), "Chinese Protestant Church 10th-Year Anniversary Meeting on Theological Construction Convenes With Grandeur in Nanjing" [Zhongguo jidujiao shenxue sixiang jianshe shi zhounian jinian dahui longzhong zhaokai], 19 November 08.

[266] "Bishop K.H. Ting's Message at the Tenth Anniversary Meeting," Amity News Service (Online), 11 November 08.

[267] State Administration for Religious Affairs (Online), "Vice Director Wang Zuo'an's Speech at the Chinese Protestant Church 10th Anniversary Meeting on Theological Construction" [Wang zuo'an fujuzhang zai zhongguo jidujiao shenxue sixiang jianshe shi zhounian jinian dahui shang de jianghua], 19 November 08.

[268] Ibid. Wang attributes "contradictions and problems" in the development of Christianity in China to the "fetters of obsolete theology."

[269] State Administration for Religious Affairs (Online), "Chinese Protestant Church Launches 10th-Year Summary Report on Theological Construction" [Zhongguo jidujiao kaizhan shenxue sixiang jianshe shinian zongjie baogao], 19 November 08.

[270] CECC, 2006 Annual Report, 20 September 06, 93; Li Weizhen, "On Justification by Faith," 18 Chinese Theological Review 101–107 (2004); Ouyang Wenfeng, "De-Emphasizing Justification by Faith: Theological Reflections," 18 Chinese Theological Review 128–132 (2004); Wang Guanghui, "De-Emphasis on Justification by Faith: An Instance of Theological Adaptation," 18 Chinese Theological Review 113–121 (2004).

[271] K.H. Ting, "Theology and Context: Speech on the 50th Anniversary of the Three-Self Patriotic Movement of the Protestant Churches in China," 17 Chinese Theological Review 123, 125 (2003).

[272] State Administration for Religious Affairs (Online), "Chinese Protestant Church Launches 10th-Year Summary Report on Theological Construction" [Zhongguo jidujiao kaizhan shenxue sixiang jianshe shinian zongjie baogao], 19 November 08.

[273] Cao Shengjie, "Run the Church Well According to the Three-Self Principle, Play an Active Role in Building a Harmonious Society: Work Report of the Seventh NCCC," 21 Chinese Theological Review 5, 30 (2008).

[274] The seminary's board of directors repeated this refrain in an April meeting and committed to serve as a "base" for theological reconstruction. "Yang Xiaodu, Head of Shanghai Municipal Party Committee's United Front Department, Inspects East China Seminary" [Shanghai shiwei tongzhanbu yang xiaodu buzhang shicha huadong shenxueyuan], Chinese Protestant Church (Online), 17 April 09; "The 23rd Board of Directors Meeting for the East China Seminary Opens in Shanghai" [Huadong shenxueyuan di 23 ci dongshihui zai hu zhaokai], Chinese Protestant Church (Online), 7 April 09.

[275] Li Kun, "Linfen Acts To Strengthen Training of Religious Personnel" [Linfen zhuoli jiaqiang zongjiaojie renshi peiyang], China Ethnicity and Religion Net (Online), 17 April 09.

[276] Measures for Recognizing Chinese Protestant Religious Personnel [Zhongguo jidujiao jiaozhi renyuan rending banfa], art. 3, reprinted in Chinese Protestant Church (Online), 9 September 08.

[277] Wuxi Municipality Huishan District Electronic Documents Center (Online), "Huishan District 2008 Ethnic and Religious Affairs Work Summary and 2009 Work Plan" [2008 nian huishan qu minzu zongjiao gongzuo zongjie ji 2009 nian gongzuo jihua], 24 December 08.

[278] Cao Shengjie, "Run the Church Well According to the Three-Self Principle, Play an Active Role in Building a Harmonious Society: Work Report of the Seventh NCCC," 21 Chinese Theological Review 5, 9–10 (2008).

[279] Ibid., 8, 28.

[280] Ibid., 8.

[281] Ibid., 10.

[282] Shenyang Municipal Commission for Ethnic and Religious Affairs (Online), "Shenyang City Three-Self Patriotic Movement and China Christian Council Convene Discussion Forum on Theology" [Shenyang shi jidujiao "lianghui" zhaokai shenxue sixiang yantaohui], 29 April 09.

[283] Regulations Governing the Religious Activities of Foreign Nationals Within China [Zhonghua renmin gongheguo guojing nei waiguoren zongjiao huodong guanli guiding], effective 31 January 94, art. 8; Regulation on Religious Affairs [Zongjiao shiwu tiaoli], issued 7 July 04, effective 1 March 05, art. 12; Fenggang Yang, "The Red, Black, and Gray Markets of Religion in China," 47 Sociological Quarterly 93, 105 (2006).

[284] Fenggang Yang, "Lost in the Market, Saved at McDonald's: Conversion to Christianity in Urban China," 44 Journal for the Scientific Study of Religion 423, 430 (2005).

[285] Police initially detained them on December 3 at a house church gathering along with 20 others who were each ordered to serve 15 days of administrative detention. Authorities accused the detainees of belonging to the "Shouters" (Local Church), a group deemed a "cult" by the central government, but international observers indicate that they were members of a house church movement called the China Gospel Fellowship. The spouse of one of the three church leaders held in reeducation through labor has pursued legal action, including filing an administrative lawsuit. ChinaAid (Online), "Three Christians Sentenced to One Year of Re-education Through Labor in Zhoukou, Henan," 6 January 09; ChinaAid (Online), "Unprecendented Motion Filed by Chinese House Church Leader To Dismiss Chief Justice for Non-Action," 26 January 09; ChinaAid (Online), "Motion To Dismiss the Chief Justice of Chuanhui District People's Court of Zhoukou Municipality," 26 January 09; "Beijing Does Not Recognize Domestic Churches, and Persecutes Them," AsiaNews (Online), 16 January 09.

[286] Xinyang Municipal Party Committee (Online), "Luoshanzi Road Police Station and State Security Join Forces To Destroy an Illegal Religious Site" [Luoshanzi lu paichusuo yu guobao dadui lianshou cuihui yichu feifa zongjiaodian], 10 April 09.

[287] "Henan House Church Members and Foreign Pastor Assaulted While Meeting, Many Are Detained" [Henan jiating jiaohui chengyuan yu waiguo mushi juhui bei chongji, duoren bei juliu], Radio Free Asia (Online), 5 March 09; "China: Christians Wary as Recession, Unrest Hit," Compass Direct (Online), 25 February 09; ChinaAid (Online), "More Than 60 House Church Leaders Arrested in Henan; 4 Still in Custody," 16 February 09.

[288] Daqing Municipal People's Congress (Online), Investigative Report Concerning Religious Affairs Management in Our City [Guanyu woshi zongjiao shiwu guanli qingkuang de diaocha baogao], 28 August 08, sec. 2, pt. 4.

[289] In a 2003 interview, Ye Xiaowen, State Administration for Religious Affairs Director, summed up the government's attitude toward contact between Chinese Protestants and foreign co-religionists: "Christianity that is patriotic is good. Christianity that is foreign-controlled is harmful." David Aikman, Jesus in Beijing: How Christianity Is Transforming China and Changing the Global Balance of Power (Washington, DC: Regnery Publishing, 2003), 176. For more recent examples, see "Speech by Zhou Ning, Director of the 2nd Bureau of the United Front Work Department, at the 10th Anniversary Meeting of Protestant Theological Construction" [Zai jidujiao shenxue sixiang jianshe shinian zhou jinian dahui shang de jianghua, zhongyang tongzhan bu erju zhou ning juzhang jianghua], Chinese Protestant Church (Online), 20 November 08; Li Kun, "Linfen Acts To Strengthen Training of Religious Personnel" [Linfen zhuoli

jiaqiang zongjiaojie renshi peiyang], China Ethnicity and Religion Net (Online), 17 April 09; Fuzhou City People's Government (Online), Report Concerning Investigation and Research Into Our Area's Christian Activities [Guanyu wochang jidujiao huodong qingkuang de diaoyan baogao], 27 November 08; Ganzhou Municipality Committee of the Chinese People's Political Consultative Conference (Online), Inspection Report on Our City's Religious Affairs Work [Guanyu woshi zongjiao gongzuo qingkuang de shicha baogao], 5 January 09; Liu Peng, "Religion as a Factor in Sino-U.S. Relations," 6 Review of Faith & International Affairs, No. 2 (Summer 2008), 61, 64.

[290] Rules for the Implementation of the Provisions on the Administration of Religious Activities of Aliens Within the Territory of the People's Republic of China, effective 26 September 00, arts. 6, 17.

[291] "China's Protestant Churches To Adhere to 'Three-Self' Principles," People's Daily (Online), 22 September 00.

[292] Cao Shengjie, "Run the Church Well According to the Three-Self Principle, Play an Active Role in Building a Harmonious Society: Work Report of the Seventh NCCC," 21 Chinese Theological Review 5, 18–19 (2008).

[293] Guangdong Provincial Ethnic and Religious Affairs Commission (Online), "Speech at the 50th Anniversary Celebration of the Establishment of the Protestant Three-Self Patriotic Movement of Guangdong Province" [Zai guangdongsheng jidujiao sanzi aiguohui chengli 50 zhounian qingzhu dahui shang de jianghua], 5 September 08.

[294] Haidian District United Front Work Department (Online), "Using Real Action To Repay Society: Beijing Haidian Church's Pastor Wu Weiqing" [Yi shiji xingdong huibao shehui—ji beijing jidu jiaohui haidian jiaotang wu weiqing mushi], 17 May 08.

[295] Taishan District People's Government (Online), "Taishan District Launches Implementation Plan for Establishing 'Harmonious Places for Religious Activities'" [Taishan qu kaizhan chuangjian 'hexie zongjiao huodong changsuo' huodong shishi fang'an], 17 March 09; Chengdu Municipal People's Government (Online), "2009 Main Work Tasks for Chengdu Bureau of Ethnic and Religious Affairs" [Minzongju shi minzongju 2009 nian gongzuo yaodian], 5 May 09; Nanjing Municipal Party Committee (Online), "Yuhuatai: Party District Committee United Front Department's 'Five Things To Strengthen' Serves and Elevates the Level of Scientific Development" [Yutaihua: quwei tongzhanbu 'wuge qianghua' tisheng fuwuyu kexue fazhan de shuiping], 6 May 09; "Speech by Zhou Ning, Director of the 2nd Bureau of the United Front Work Department, at the 10th Anniversary Meeting of Protestant Theological Construction" [Zai jidujiao shenxue jianshe shinian zhou jinian dahui shang de jianghua, zhongyang tongzhan bu erju zhou ning juzhang jianghua], Chinese Protestant Church (Online), 20 November 08; ChinaAid (Online), "Persecution Intensifies After Olympics," 29 October 08; ChinaAid (Online), "Registered Church in Jiangsu Province Demolished, Christians Beaten," 22 December 08; ChinaAid (Online), "More Than 60 House Church Leaders Arrested in Henan; 4 Still in Custody," 16 February 09.

[296] Yudu County People's Government (Online), "Implementation Plan for Special Investigation and Study of Religion in Luo'ao Township" [Luo'an zhen zongjiao gongzuo zhuanxiang diaoyan shishi fang'an], 14 November 08; Tancheng County Bureau of Ethnic and Religious Affairs (Online), "City Ethnic and Religious Affairs Bureau Comes to Tancheng County for Investigation and Research on Conditions Regarding Unauthorized Protestant Meeting Sites" [Shi minzongju lai tancheng xian diaoyan jidujiao sishe juhuidian qingkuang], 8 October 08; Shicheng County People's Government (Online), "Concerning the Printing and Distribution of the Circular Entitled 'Implementation Plan for the Special Investigation and Study of Protestants in Pingshan Township'" [Guanyu yinfa "pingshan zhen jidujiao zhuanxiang diaoyan shishi fang'an" de tongzhi], 10 November 08; Ganzhou Municipality Committee of the Chinese People's Political Consultative Conference (Online), Inspection Report on Our City's Religious Affairs Work [Guanyu woshi zongjiao gongzuo qingkuang de shicha baogao], 5 January 09; Zhongwei Municipal Party Committee (Online), "Municipal Ethnic and Religious Affairs Bureau: Launch Investigations To Identify Problems, Get Ideas Into Shape, and Increase Measures" [Shiminzu zongjiaoju: kaizhan diaoyan zhaowenti, liqing silu zeng cuoshi], 22 April 09; Fuzhou City People's Government (Online), Report Concerning Investigation and Research Into Our Area's Christian Activities [Guanyu wochang jidujiao huodong qingkuang de diaoyan baogao], 27 November 08; Yanping District People's Government (Online), "Yanping District Bureau of Ethnic and Religious Affairs 2008 Main Work Points" [Yanping qu minzu yu zongjiao shiwu ju 2008 nian gongzuo yaodian], 29 November 07.

[297] U.S. Commission for International Religious Freedom (Online), 2009 Annual Report, 1 May 09, 82.

[298] Peter Ford, "Pastor's Private Worship Puts Him Under Public Scrutiny," Christian Science Monitor (Online), 18 December 08; ChinaAid (Online), "Pastor 'Bike' Zhang Mingxuan Arrested; Police Confiscate More Than 150,000 Yuan," 7 April 09; ChinaAid (Online), "More Than a Dozen PSB Officers Force Pastor Bike Out of Beijing," 16 January 09; ChinaAid (Online), "PSB Pay Pastor Bike Zhang Compensation," 13 January 09; ChinaAid (Online), "Pastor Bike Detained in Inner Mongolia, Then Released After International Pressure," 22 December 08; ChinaAid (Online), "Pastor 'Bike' Zhang Mingxuan Files Administrative Complaint on Behalf of Chinese House Church Alliance With Support of 15 Chinese Legal Professionals and Intellectuals; Court Declines Case," 9 December 08; ChinaAid (Online), "Pastor 'Bike' Zhang Accused of Illegal Business Operations for Giving Away Prayer Bands," 24 December 08; ChinaAid (Online), "Son of Pastor Bike Zhang in Critical Condition After Severe Beating From PSB Officials," 16 October 08; ChinaAid (Online), "China Issued 'Decision Statement on Abolishment' of Chinese House Church Alliance," 30 November 08.

[299] "Christians' Legal Appeals 'Denied,'" Radio Free Asia (Online), 13 January 09.

[300] ChinaAid (Online), "Christian Mao Minzi Sentenced to Re-education Through Labor," 17 December 08.

[301] Luo Jieqi, "Controversy Over the Shutdown and Punishment of Beijing Yitong Law Firm" [Beijing yitong lvsuo tingye chuze zhengyi], Caijing (Online), 4 March 09; Peter Ford, "China

Cracks Down on Human Rights Lawyers," Christian Science Monitor (Online), 25 February 09; ChinaAid (Online), "Yitong Law Firm Closed for Defending Human Rights Cases," 6 March 09.

[302] Human Rights in China (Online), "Case Update: Elderly Activist Shuang Shuying Released; Reports Abuses in Prison," 13 February 09; ChinaAid (Online), "Shuang Shuying, 79, Released From Prison; Her Open Letter Reveals Torture," 8 February 09; Ethan Cole, "Christian Chinese Couple Pleads for Final Meeting," Christian Post (Online), 29 January 09; "78 Year-Old Beijing Petitioner Shuang Shuying Sentenced to 2 Years," Radio Free Asia (Online), 26 February 07; ChinaAid (Online), "Beijing Elderly Christian Sentenced to 2 Years Imprisonment," 27 February 07.

[303] Despite her advanced age and several medical conditions, authorities denied Shuang's requests for medical parole. Human Rights in China (Online), "Case Update: Elderly Activist Shuang Shuying Released; Reports Abuses in Prison," 13 February 09; ChinaAid (Online), "Shuang Shuying, 79, Released From Prison; Her Open Letter Reveals Torture," 8 February 09; Ethan Cole, "Christian Chinese Couple Pleads for Final Meeting," Christian Post (Online), 29 January 09; Human Rights in China (Online), "Elderly Activist Denied Medical Parole," 13 September 07.

[304] ChinaAid (Online), Annual Report of Persecution by the Government on Christian House Churches Within Mainland China, January 2009, 5.

[305] For example, authorities shut down Christmas services at the Liangren church in the capital of Guangdong province and at a Bible school in Weifang city, Shandong province. Authorities also detained seven house church leaders after raiding a Christmas Day service in the Xinjiang Uyghur Autonomous Region's Qitai county in the Changji Hui Autonomous Prefecture. On January 2 in neighboring Urumqi city, officers stormed a house church service and took 51 attendees into custody for questioning. Authorities held three of them in Public Security Bureau custody and extrajudicially oredered one woman to serve 10 days of administrative detention. See ChinaAid (Online), "51 Christians Detained in Xinjiang, One Young Mother Sentenced," 5 January 09. "Christians' Legal Appeals 'Denied,'" Radio Free Asia (Online), 15 January 09; ChinaAid (Online), "Christmas Day Persecution in Anhui, Henan, and Xinjiang; 13 Christians in Prison," 26 December 08.

[306] ChinaAid (Online), "Chinese Government Launches Attacks Against Christians During Christmas Season," 25 December 08; ChinaAid (Online), "Nine Arrested on Christmas Eve in Henan, Four Detained," 29 December 08; "Beijing Does Not Recognize Domestic Churches, and Persecutes Them," AsiaNews (Online), 16 January 09.

[307] ChinaAid (Online), "Chinese Government Launches Attacks Against Christians During Christmas Season," 25 December 08.

[308] ChinaAid (Online), "Christmas Day Persecution in Anhui, Henan, and Xinjiang; 13 Christians in Prison," 26 December 08.

[309] Police reportedly targeted the group because of the presence of Protestant volunteers from outside of the area. ChinaAid (Online), "Christians in Earthquake Disaster Areas Raided by Police on Christmas Eve," 28 December 08.

[310] Ningbo officials also "educated" managers of hotels, theaters, and schools on the importance of denying unregistered Christian groups access to their facilities. Zhejiang Ethnic and Religious Affairs Commission (Online), "Ningbo City Deploys Safety Management Work for Religious Activities During Christmas Period" [Ningbo shi bushu shengdanjie qijian zongjiao huodong anquan quanli gongzuo], 10 December 08.

[311] Most were released the next day after they paid fines ranging from 1,000 to 2,000 yuan (US$146 to 292), though two leaders were each ordered to serve 15 days of administrative detention. On March 1, Nanyang security forces raided another worship service and detained 18 house church members. "Henan House Church Members and Foreign Pastor Assaulted While Meeting, Many Are Detained" [Henan jiating jiaohui chengyuan yu waiguo mushi juhui bei chongji, duoren bei juliu], Radio Free Asia (Online), 5 March 09.

[312] ChinaAid (Online), "House Church Leader Zhu Baoguo Sentenced to 'Re-education Through Labor,'" 18 November 08.

[313] Chinese Human Rights Defenders (Online), "Easter Services in Chengdu Banned, Wang Yi and Six Others Summoned to Court" [Chengdu fuhuojie jingbaihui bei qudi, wang yi deng liu ren bei chuanhuan], 13 April 09.

[314] Yancheng authorities not only defied the court ruling, but also failed to uphold property rights that are granted to registered churches under the State Council's Regulation on Religious Affairs. See Regulation on Religious Affairs [Zongjiao shiwu tiaoli], issued 7 July 04, effective 1 March 05, art. 30; ChinaAid (Online), "Registered Church in Jiangsu Province Demolished, Christians Beaten," 22 December 08.

[315] A coalition of local officials and real estate developers had long sought to seize the land on which the church was built. ChinaAid (Online), "Registered Church in Jiangsu Province Demolished, Christians Beaten," 22 December 08.

[316] "Christians' Legal Appeals 'Denied,'" Radio Free Asia (Online), 13 January 09; "Beijing Does Not Recognize Domestic Churches, and Persecutes Them," AsiaNews (Online), 16 January 09.

[317] ChinaAid (Online), "Chinese Government Launches Attacks Against Christians During Christmas Season," 25 December 08.

[318] Authorities also detained Chang Fengying in a "black jail" during the 2008 Beijing Summer Olympic Games. A Three-Self Patriotic Movement church reportedly assumed ownership of Chang's property after it was seized. ChinaAid (Online), "TSPM Working in Collusion With the Government To Persecute House Church Christians," 21 February 09.

[319] ChinaAid (Online), "Shanghai Authorities Plan To Deprive Wanbang Missionary Church of Its Right To Worship," 13 February 09.

[320] The term "transformation through reeducation" describes a process of ideological reprogramming whereby religious believers are subjected to various methods of physical and psy-

chological coercion until they recant their beliefs. See CECC, 2008 Annual Report, 31 October 08, 90.

[321] ChinaAid (Online), "Yichun House Churches Banned," 29 October 08.

[322] Chengdu Municipal People's Congress (Online), "Report Concerning the Situation With Religious Work in Chengdu Municipality" [Guanyu chengdu shi zongjiao gongzuo qingkuang de baogao], 29 October 08.

[323] Chongqing Municipality Hechuan District People's Government (Online), "Cheng Wei's Speech at District-Wide Mobilization Meeting on Rectifying Illegal Religious Activities" [Cheng wei zai quanqu zhili feifa zongjiao huodong dongyuan dahui shang de jianghua], 16 October 08; "Local Governments Target 'Illegal' Worship Sites and 'Illegal' Religious Activities Throughout the Fall," CECC China Human Rights and Rule of Law Update, December 2008, 2.

[324] Taixing City People's Government Opinion on the Launch of Special Administration for Our Township's Outstanding Problems With Religion [Guanyu dui wozhen zongjiao tuchu wenti kaizhan zhuanxiang zhili de yijian], issued 29 March 09.

[325] At least two other governments in Jiangsu province, Suqian municipality and Pei county, ordered officials to "ban" or "rectify" house churches in 2008 and 2009. Nanjing Municipal Party Committee (Online), "Yuhuatai: Party District Committee United Front Department's 'Five Things to Strengthen' Serves and Elevates the Level of Scientific Development" [Yuhuatai: quwei tongzhanbu 'wuge qianghua' tisheng fuwuyu kexue fazhan de shuiping], 6 May 09; Suqian Municipal Party Committee's United Front Work Department (Online), "Sucheng District Establishes a Joint Operations Mechanism To Ban Unauthorized Protestant Meeting Sites" [Sucheng qu jianli liandong jizhi qudi jidujiao sishe juhuidian], 7 May 08; Pei County People's Government (Online), "2008 Work Summary: Pei County Bureau of Ethnic and Religious Affairs" [2008 nian gongzuo zongjie peixian minzu zongjiao shiwuju], 28 November 08.

[326] Zhongwei City Party Committee (Online), "Municipal Ethnic and Religious Affairs Bureau: Launch Investigations To Identify Problems, Get Ideas Into Shape, and Increase Measures" [Shiminzu zongjiaoju: kaizhan diaoyan zhaowenti, liqing silu zeng cuoshi], 22 April 09; Duchang County Bureau of Ethnic and Religious Affairs (Online), "Speech to the Countywide Meeting on Ethnic and Religious Affairs Work" [Zai quanxian minzu zongjiao gongzuo huiyi shang de jianghua], 30 April 09.

[327] The Chinese term is "xiejiao zuzhi." In 1995, the State Council and the Communist Party Central Committee formally outlawed a number of "heretical" or "cult" groups with Protestant roots. "Selection of Cases From the Criminal Law: Banned Protestant Groups," Occasional Publications of the Dui Hua Foundation, No. 12, February 2003, iii.

[328] Fenggang Yang, "The Red, Black, and Gray Markets of Religion in China," 47 Sociological Quarterly 93, 106–108 (2006). It is unknown how many members of these groups have been arrested or detained in recent years, but the total has likely risen on account of the extensive "anti-cult" crackdown of the last decade. For more information on the scale of the anti-cult crackdown, see CECC, 2008 Annual Report, 31 October 08, 87–93. In the 17 months prior to the July 1999 commencement of the anti-cult crackdown, the Ministry of Public Security reported over 20,000 arrests of "cult" members from mostly Protestant groups. "Selection of Cases From the Criminal Law: Banned Protestant Groups," Occasional Publications of the Dui Hua Foundation, No. 12, February 2003, iv.

[329] K.H. Ting, "Theology and Context: Speech on the 50th Anniversary of the Three-Self Patriotic Movement of the Protestant Churches in China," 17 Chinese Theological Review 123, 127–128 (2003).

[330] Chongqing Municipality Hechuan District People's Government (Online), "Cheng Wei's Speech at Districtwide Mobilization Meeting on Rectifying Illegal Religious Activities" [Cheng wei zai quanqu zhili feifa zongjiao huodong dongyuan dahui shang de jianghua], 16 October 08.

[331] Wang Zuo'an, "What Kind of Christianity Do We Hope For? Address at the Conference on the 'Missionary Movement and the Chinese Church,'" 21 Chinese Theological Review 94, 96 (2008).

[332] Ministry of Public Security, Circular on Several Issues With Designating and Banning Cult Organizations [Gong'an bu guanyu rending he qudi xiejiao zuzhi ruogan wenti de tongzhi], 30 April 00. The founder of South China Church was executed for alleged rape and "using a cult to sabotage the enforcement of state law." Members of the church contend that the rape allegation was extracted by torturing female adherents with electric batons. Maria Hsia Chang, Falun Gong: The End of Days (New Haven: Yale University Press, 2004), 147–148.

[333] Ministry of Public Security, Circular on Several Issues With Designating and Banning Cult Organizations [Gong'an bu guanyu rending he qudi xiejiao zuzhi ruogan wenti de tongzhi], 30 April 00.

[334] ChinaAid (Online), "Report by South China Church About Persecution in November 2008," 12 December 08; "RFA Exclusive Report: Many Members of South China Church Arrested and Forbidden From Seeing Family and Attorney" [RFA dujia baodao: zhongguo huanan jiaohui duoren beibu jinjian jiaren lushi], Radio Free Asia (Online), 5 February 09.

[335] ChinaAid (Online), "Four Christians Missing in Hubei Since Beginning of November; Many More Persecuted by Authorities," 12 December 08; ChinaAid (Online), "Report by South China Church About Persecution in November 2008," 12 December 08.

[336] "RFA Exclusive Report: Many Members of South China Church Arrested and Forbidden From Seeing Family and Attorney" [RFA dujia baodao: zhongguo huanan jiaohui duoren beibu jinjian jiaren lushi], Radio Free Asia (Online), 5 February 09.

[337] ChinaAid (Online), "Report by South China Church About Persecution in November 2008," 12 December 08.

[338] ChinaAid (Online), "Missing Christian: Zhu Yongping," 12 December 08.

[339] The government labeled the church a "counterrevolutionary group" in 1983 and designated it a "cult organization" in 1995. "Selection of Cases From the Criminal Law: Banned Protestant Groups," Occasional Publications of the Dui Hua Foundation, No. 12, February 2003, vii; Ministry of Public Security, Circular on Several Issues With Designating and Banning Cult Organi-

zations [Gong'an bu guanyu rending he qudi xiejiao zuzhi ruogan wenti de tongzhi], 30 April 00.

[340] ChinaAid (Online), "More Than 400 College Students in Beijing and Hangzhou Detained and Interrogated; Four Church Leaders Sentenced to Labor Camps," 3 December 08.

[341] Ibid.; ChinaAid (Online), "House Church Training Raided in Beijing; 110 Interrogated, 2 Detained," 3 December 08; ChinaAid (Online), "Nine House Church Meetings Raided Simultaneously in Hangzhou City," 3 December 08.

[342] ChinaAid (Online), "Nine House Church Meetings Raided Simultaneously in Hangzhou City," 3 December 08.

[343] Ninghai County Bureau of Education (Online), "Speaking of Science, Opposing Cults, Preventing Infiltration, Promoting Harmony" [Jiang kexue fan xiejiao fang shentou cu hexie], 11 May 09.

[344] Minqing County People's Government (Online), "Tazhuang Township 2009 Political-Legal Comprehensive Work Points" [2009 nian tazhuang zhen zhengfa zongzhi gongzuo yaodian], 11 February 09; Zhang Wei, Jian'ou City People's Government (Online), "Our City Perfects Four Mechanisms To Safeguard Stability in the Religious Sphere" [Wo shi wanshan sixiang jizhi weihu zongjiao lingyu de wending], 23 April 09.

[345] ChinaAid (Online), "Elderly House Church Leader Arrested in Henan," 17 February 09.

[346] For more information on the 6–10 Office, see CECC, 2008 Annual Report, 31 October 08, 88–90.

[347] Suqian Municipal Communist Party Committee United Front Work Department (Online), "Central 6–10 Office Director Li Xiaodong Arrives in Siyang for Investigation and Research on Cult Work" [Zhongyang 610 bangongshi juzhang li xiaodong li si diaoyan xiejiao gongzuo], 8 December 08.

[348] Jiangsu Ethnic Affairs Commission and Religious Affairs Bureau (Online), "Suqian City Launches Within Protestant Circles Practice and Pondering on Educational Activities on the 'Two Big Topics' of Pure Belief and Development To Become Rich" [Suqian shi zai jidu jiaojie kaizhan chunzheng xinyang fazhan zhifu 'liang da zhuti' jiaoyu huodong de shijian yu sixiang], 20 October 08.

[349] Three-Self Patriotic Movement Committee of the Protestant Churches of Beijing's Fengtai District (Online), "Promoting Harmony, Everyone Has a Duty" [Cujin hexie, renren youze], 11 July 08. In May 2009, TSPM and China Christian Council teachers in Nanjing also teamed up with the 6–10 Office and other departments to offer training classes sponsored by the local government to Protestant "volunteers." See Nanjing Municipal Party Committee United Front Work Department (Online), "Qixia District Holds 12th Training Class for Protestant Volunteers" [Qixia qu juban jidujiao di shier qi yigong peixun ban], 15 May 09.

[350] Liuyang City People's Government (Online), "Liuyang City Communist Party Committee's 6–10 Office Issues Open Letter to the Entire City's Cadres and Citizens Concerning 'Upholding Science, Caring for the Family, Cherishing Life, and Opposing Cults'" [Zhonggong liuyang shiwei 610 bangongshi guanyu 'chongshang kexue, guan'ai jiating, zhenxi shengming, fandui xiejiao' zhi quanshi ganbu qunzhong de gongkaixin], 2 April 09. A public notice posted in Changsha in March provided a 24-hour hotline to report "cult" activity and assured family and friends of "cult" adherents that their loved ones would be treated with leniency if reported. Liuyang City People's Government (Online), "Liuyang City Communist Party Committee's 6–10 Office Announcement Concerning Rewards for Reporting Cult Activities" [Zhonggong liuyang shiwei 610 bangongshi guanyu dui xiejiao huodong jubao youjiang de gonggao], 3 March 09.

[351] Liuyang City People's Government (Online), "Liuyang City Communist Party Committee's 6–10 Office Issues Open Letter to the Entire City's Cadres and Citizens Concerning 'Upholding Science, Caring for the Family, Cherishing Life, and Opposing Cults'" [Zhonggong liuyang shiwei 610 bangongshi guanyu 'chongshang kexue, guan'ai jiating, zhenxi shengming, fandui xiejiao' zhi quanshi ganbu qunzhong de gongkaixin], 2 April 09.

[352] Regulation on Religious Affairs [Zongjiao shiwu tiaoli], adopted 7 July 04, effective 1 March 05, art. 6; Chi-Tim Lai, "Daoism in China Today, 1980–2002," 174 China Quarterly 413, 421–422 (June 2003).

[353] Article 3 of the Chinese Taoist Association (CTA) Constitution says that the State Administration for Religious Affairs is the "administrative unit in charge of" the CTA. Constitution of the Chinese Taoist Association [Zhongguo daojiao xiehui zhangcheng], enacted 24 June 05, art. 3.

[354] "China Taoist Association President's Work Meeting Convenes in Beijing" [Zhongguo daojiao xiehui huizhang bangong huiyi zaijing zhaokai], China Taoist Association (Online), 24 April 09.

[355] Measures for Confirming Taoist Religious Personnel [Daojiao jiaozhi renyuan rending banfa], adopted 20 September 07, issued 4 March 08, art. 3.

[356] Ibid., art. 11.

[357] For a recent example, see Taixing City People's Government Opinion on the Launch of Special Administration for Our Township's Outstanding Problems With Religion [Guanyu dui wozhen zongjiao tuchu wenti kaizhan zhuanxiang zhili de yijian], issued 29 March 09.

[358] These priests are often referred to as sanju daoshi in official reports. Chi-Tim Lai, "Daoism in China Today, 1980–2002," 174 China Quarterly 413, 417 (June 2003). For a recent example, officials in Shashi district, Jingzhou city, Hubei province, established a "small work group for managing Zhengyi priests" in November 2008 for the purpose of "strengthening the management of Taoist affairs" and "striking against illegal religious activities." Ethnic and Religious Affairs Commission of Hubei Province (Online), "Shashi District Explores Management of Taoist Priests Who Reside at Home" [Shashi qu tansuo sanju daoshi guanli gongzuo], 6 November 08.

[359] See discussion that follows on the Orthodox church in China. In addition, Chinese members of the Church of Jesus Christ of Latter-Day Saints were reported in 2006 to have held services in Beijing. They met at a facility used by foreign members of the church, but at a different time from the foreign church members. Bureau of Democracy, Human Rights, and Labor, U.S.

Department of State, International Religious Freedom Report—2006, China (includes Tibet, Hong Kong, and Macau), 15 September 06.

[360] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State (Online), International Religious Freedom Report—2008, China (includes Tibet, Hong Kong, and Macau), 19 September 08; Heilongjiang Regulation on the Management of Religious Affairs [Heilongjiangsheng zongjiao shiwu guanli tiaoli], issued 12 June 97, effective 1 July 97, art. 2; Inner Mongolia Autonomous Region Implementing Measures for the Management of Venues for Religious Activity [Nei menggu zizhiqu zongjiao huodong changsuo guanli shishi banfa], issued 23 January 96, effective 23 January 96, art. 2.

[361] "Patriarch Kirill Meets Ye Xiaowen, China's Religious Affairs Minister," AsiaNews (Online), 12 February 09.

[362] Byzantine Catholic Church in America (Online), "Orthodox Clergymen From China Took Part in Divine Services in the Russian Consulate in Shanghai," 20 June 09.

[363] Provisions on the Management of the Religious Activities of Foreigners Within the PRC [Zhonghua renmin gongheguo jingnei waiguoren zongjiao huodong guanli guiding], issued 31 January 94, effective 31 January 94, art. 4; Detailed Implementing Rules for the Provisions on the Management of the Religious Activities of Foreigners Within the PRC [Zhonghua renmin gongheguo jingnei waiguoren zongjiao huodong guanli guiding shishi xize], issued 26 September 00, effective 26 September 00, arts. 7, 17(5).

[364] In addition to the provincial regulation passed in Hunan, discussed within, lower level governments also reported passing legislation on folk beliefs or issuing guidance on the regulation of folk beliefs. See, e.g., Hebei Province Ethnic and Religious Affairs Department (Online), "Xingtai City, Pingxiang County Puts Forth Our Province's First 'Provisional Measures on the Management of Folk Belief Affairs'" [Xingtaishi piangxiangxian qutai wo sheng shoubu "Minjian xinyang shiwu guanli zanxing banfa"], 16 October 07; Ningbo City Ethnicity and Religious Affairs Bureau (Online), "Yinzhou District Standardizes Management of Venues for Folk Belief Activities" [Yinzhouqu guifan minjian xinyang huodong changsuo guanli], 22 January 08. Authorities in Pingxiang county cited concerns about "instability," inadequate management, and "hidden dangers" as reasons for establishing the province's first legal measures on the management of folk beliefs, even as they also cited "protecting citizens' freedom of religious belief" as another motivation for the legislation.

[365] "Hunan Authorities Issue New Legal Measures To Regulate Folk Belief Venues," Congressional-Executive Commission on China (Online), 14 December 07, citing Circular Concerning Printing and Distribution of "Hunan Province Provisional Measures for the Management of Venues for Folk Belief Activities" [Guanyu yinfa "hunan sheng minjian xinyang huodong changsuo dengji guanli zanxing banfa" de tongzhi], issued 16 August 07, effective 16 August 07.

[366] "Investigation and Research Meeting on Folk Beliefs Work Held in Hunan" [Minjian xinyang gongzuo diaoyan huiyi zai hunan juxing], Chinese Religions (Online), 2 December 08.

[367] See the Congressional-Executive Commission on China Political Prisoner Database for more information about these cases.

Notes to Section II—Ethnic Minority Rights

[1] The expression "*shaoshu minzu*" encompasses populations within China's borders that the government designates as groups other than Han Chinese. Chinese and outside sources have used such terms as "nationality" and "ethnicity" to translate "*minzu*" into English. Varying terminology can introduce imprecision, and some scholars writing in English choose to leave the term untranslated. See, e.g., Gardner Bovingdon, "Autonomy in Xinjiang: Han Nationalist Imperatives and Uyghur Discontent," East-West Center, Washington, 2004, Policy Studies 11, 49 (endnote 4); Jonathan N. Lipman, Familiar Strangers: A History of Muslims in Northwest China (Seattle: University of Washington Press, 1997), xx–xxv (discussing the notion of *minzu*).

[2] See discussion within for more information on restrictions on ethnic minority rights within China. For a detailed discussion of the relevant domestic legal framework, see Special Focus for 2005: China's Minorities and Government Implementation of the Regional Ethnic Autonomy Law, CECC, 2005 Annual Report, 11 October 05, 13–23. Regarding international human rights standards, see, e.g., the Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, arts. 2, 7; International Covenant on Civil and Political Rights (ICCPR), adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, arts. 2(1), 26, 27; International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 3 January 76, art. 2(2); Convention on the Rights of the Child (CRC), adopted and opened for signature, ratification, and accession by General Assembly resolution 44/25 of 20 November 89, entry into force 2 September 90, arts. 2(1), 30. See generally International Convention on the Elimination of All Forms of Racial Discrimination (CERD), adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 65, entry into force 4 January 69. Article 1(1) of CERD defines racial discrimination to mean "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life." China is a party to the ICESCR and the CRC, and a signatory to the ICCPR. As in previous years, the Chinese Government this reporting year continued to reiterate its commitment to ratifying the ICCPR, which China signed in 1998. In February 2009, during the UN Human Rights Council's Universal Periodic Review of the Chinese Government's human rights record, the Chinese Government supported recommendations made by Member States that China ratify the ICCPR. At the time, Chinese officials also said China was in the process of amending domestic laws, including the criminal procedure law and laws relating to reeducation through labor, to make them compatible with the ICCPR. UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, paras.

63, 114 (1). Moreover, in the 2009–2010 National Human Rights Action Plan (HRAP) issued by the Chinese Government in April 2009, officials stated that the ICCPR was one of the "fundamental principles" on which the plan was framed, and that the government "will continue legislative, judicial and administrative reforms to make domestic laws better linked with this Covenant, and prepare the ground for approval of the ICCPR." State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, introduction, sec. V(1).

[3] PRC Regional Ethnic Autonomy Law, enacted 31 May 84, effective 1 October 84, amended 28 February 01, preamble.

[4] For an overview of the regional ethnic autonomy system, see CECC, 2005 Annual Report, 11 October 05, 13–23.

[5] See discussion within for detailed information on these developments.

[6] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. III(1).

[7] Ibid.

[8] Raymond Li, "Beijing's Action Plan Lacks Detail on Enforcing People's Political and Civil Rights, Experts Say," South China Morning Post (Online), 14 April 09; Michael Sainsbury, "Chinese Plan for Human Rights," Australian (Online), 14 April 09; Tina Wang, "Beijing Talks the Talk," Forbes (Online), 14 April 09.

[9] Committee on the Elimination of Racial Discrimination, Concluding Observations of the Committee on the Elimination of Racial Discrimination, The People's Republic of China (Including Hong Kong and Macau Special Administrative Regions), CERD/C/CHN/CO/10–13, 28 August 09, paras. 10–13, 18, 20, 21, 22, 24, 26.

[10] See Government Affirms Policy on Ethnic Issues, Heightens Propaganda within this section for more information.

[11] See Section IV—Xinjiang and Section V—Tibet, for more information.

[12] "China's Responses at the UN Human Rights Council's Universal Periodic Review," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 3.

[13] For detailed information on the 2008 protests, see CECC, 2008 Annual Report, 31 October 08, 172, 183–186. See Section IV—Xinjiang for detailed information on the 2009 demonstration in the Xinjiang Uyghur Autonomous Region.

[14] Central Propaganda Department and State Ethnic Affairs Commission, Outline Concerning Propaganda and Education on the Party and State's Ethnic Policy [Dang he guojia minzu zhengce xuanchuan jiaoyu tigang], 5 February 09 (estimated date). See also analysis in "Government Calls for Strengthening Propaganda on Ethnic Policy," CECC China Human Rights and Rule of Law Update, No. 2, 2009, 2.

[15] See, e.g., "Xinjiang Party Chief Slashes Riot Which Kills 140," Xinhua (Online), 7 July 09; "Police Have Evidence of World Uyghur Congress Masterminding Xinjiang Riot," Xinhua (Online), 7 July 09; Ministry of Foreign Affairs (Online), "Foreign Ministry Spokesperson Qin Gang's Regular Press Conference on July 14, 2009," 14 July 09.

[16] Choi Chi-Yuk, "Policies Not To Blame for Rioting, Official Says," South China Morning Post, 22 July 09 (Open Source Center, 22 July 09); "FYI—CCTV–4 Live Coverage of PRC State Council Press Conference on Ethnic Policy," Beijing CCTV–4, 21 July 09 (Open Source Center, 21 July 09). Ashat Kerimbay, member of the Central Committee of the Communist Party and chair of the Xinjiang Uyghur Autonomous Region Regional Committee of the Chinese People's Political Consultative Conference, described China's policies on ethnic issues as "the best in the world." "Ethnic Unity Most Important for Regional Development," Xinhua, reprinted in China Daily (Online), 20 July 09. At the same time, at least one official, Guangdong Communist Party secretary and Politboro member Wang Yang, said state policies toward ethnic minorities "need adjustments" and that it was necessary to "adjust to the actual situation." He did not elaborate on precisely what kinds of adjustments are necessary. James Pomfret, "China Needs New Policies After Xinjiang: Official," Reuters (Online), 30 July 09.

[17] Ministry of Education and State Ethnic Affairs Commission, Guiding Program on Ethnic Unity Education in Schools (Trial) [Xuexiao minzu tuanjie jiaoyu zhidao gangyao (shixing)], issued 26 November 08. See also analysis in "Chinese Government Mandates 'Ethnic Unity Education' To Promote Party Policy on Ethnic Groups," CECC China Human Rights and Rule of Law Update, No. 1, 2009, 3.

[18] Ministry of Education and State Ethnic Affairs Commission, Guiding Program on Ethnic Unity Education in Schools (Trial) [Xuexiao minzu tuanjie jiaoyu zhidao gangyao (shixing)], issued 26 November 08. A July 7, 2009, notice based on a May meeting examining ethnic unity education called for strengthening the education in accordance with the earlier trial program and stressed the importance of strengthening oversight of the ethnic unity education. General Offices of Ministry of Education and State Ethnic Affairs Commission, Circular on "Summary of Video Conference on Deployment of Work on National Elementary and Secondary School Ethnic Unity" [Jiaoyubu bangongting guojia min wei bangongting guanyu yinfa "quanguo zhong xiaoxue minzu tuanjie jiaoyu gongzuo bushu shipin huiyi jiyao" de tongzhi], issued 7 July 09.

[19] "Teleconference on Carrying Out in a Deep Way Propaganda and Education Activities on Ethnic Unity Is Convened in Beijing" [Shenru kaizhan minzu tuanjie xuanchuan jiaoyu huodong dianshi dianhua huiyi zai jing zhaokai], Xinhua (Online), 24 August 09.

[20] The HRAP also affirms ethnic minorities' right to administer in designated autonomous areas and outlines steps to further guarantee ethnic minority representation at various levels of government. State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. III(1).

[21] State Ethnic Affairs Commission (Online), "State Ethnic Affairs Commission and Other Offices Organize Investigation of Conditions Regarding Some Provinces' Implementation of Party and State Ethnic Policies" [Guojia minwei deng zuzhi dui bufen shengqu guanche zhixing dang he guojia minzu zhengce youguan qingkuang jinxing jiandu], 22 July 09.

[22] "China Boosting Research on Ethnic Issues To Better Resolve Disputes," Xinhua, 7 August 09 (Open Source Center, 7 August 09).
[23] See citations within. See also CECC, 2005 Annual Report, 11 October 05, 17–18.
[24] See, e.g., "'Go West' Campaign To Accelerate," China Daily, reprinted in China Internet Information Center (Online), 17 July 05.
[25] CECC, 2005 Annual Report, 11 October 05, 17–18; Human Rights in China, "China: Minority Exclusion, Marginalization and Rising Tensions," 2007, 14.
[26] See Section IV—Xinjiang, Section V—Tibet, and Human Rights in the Inner Mongolia Autonomous Region within this section for detailed examples and citations. See also, e.g., Human Rights in China, "China: Minority Exclusion, Marginalization and Rising Tensions," 2007, 22–24.
[27] See discussion within as well as Section IV—Xinjiang—Development.
[28] State Ethnic Affairs Commission, Ministry of Science and Technology, Ministry of Agriculture, and the China Association for Science and Technology, Some Opinions Concerning the Increased Strengthening of Science and Technology Work Among Ethnic Minorities and Ethnic Minority Regions [Guanyu jinyibu jiaqiang shaoshu minzu he minzu diqu keji gongzuo de ruogan yijian], 3 November 08. See also analysis in "New Science and Technology Plan for Ethnic Minorities Raises Questions About Ethnic Minority Rights," CECC China Human Rights and Rule of Law Update, December 2008, 3.
[29] For international standards on participation in economic life, see Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by UN General Assembly resolution 47/135 of 18 December 92, art. 2(2).
[30] For example, a provision supporting the development of ethnic minority medicine does not specify steps for ensuring that ethnic minority communities maintain oversight and gain benefit from the development of ethnic minority medicine. State Ethnic Affairs Commission, Ministry of Science and Technology, Ministry of Agriculture, and the China Association for Science and Technology, Some Opinions Concerning the Increased Strengthening of Science and Technology Work Among Ethnic Minorities and Ethnic Minority Regions [Guanyu jinyibu jiaqiang shaoshu minzu he minzu diqu keji gongzuo de ruogan yijian], 3 November 08, art. 8. A previous provincial-level effort to promote the development of ethnic minority medicine and apply intellectual property protections has similarly lacked concrete measures that safeguard ethnic minorities' rights and interests. CECC, 2008 Annual Report, 31 October 08, 157.
[31] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. III(1). As of 2005, rural ethnic minority citizens comprised nearly half of all Chinese citizens living in extreme poverty, though ethnic minorities as a whole are less than 9 percent of China's population. Zhao Huanxin, "Priority Plan for Ethnic Minorities," China Daily, 30 March 07 (Open Source Center, 30 March 07). The 2009 Action Plan follows a separate five-year development program for ethnic minorities and ethnic minority regions issued in 2007. State Council General Office, Circular on Printing and Issuing the 11th 5-Year Program for Ethnic Minority Undertakings [Guowuyuan bangongting guanyu yinfa shaoshu minzu shiye 'shiyiwu' guihua de tongzhi], issued 27 February 07. For more information, see CECC, 2007 Annual Report, 10 October 07, 106.
[32] See text citations above for a critique of government development projects. For assessments of the National Human Rights Action Plan, see Raymond Li, "Beijing's Action Plan Lacks Detail on Enforcing People's Political and Civil Rights, Experts Say," South China Morning Post (Online), 14 April 09; Michael Sainsbury, "Chinese Plan for Human Rights," Australian (Online), 14 April 09; Tina Wang, "Beijing Talks the Talk," Forbes (Online), 14 April 09.
[33] For general information on the Chinese policy of fixing ethnic identity, see, e.g., Stevan Harrell, "Introduction," in Cultural Encounters on China's Ethnic Frontiers, ed. Stevan Harrell (Seattle: University of Washington, 1995), 22–24; Katherine Palmer Kaup, Creating the Zhuang: Ethnic Politics in China (Boulder: Lynne Rienner Publishers, 2000), 51–71. For Chinese regulations on the issue, see, e.g., Stipulations Concerning Chinese Citizens Determining Ethnic Identity [Guanyu zhongguo gongmin queding minzu chengfen de guiding], issued 10 May 90, effective 10 May 90; Notice by 3 Ministries and Commissions Concerning Executing to the Letter Stipulations Concerning Modifying Ethnic Status [San buwei guanyu yange zhixing biangeng minzu chengfen youguan guiding de tongzhi], issued 23 April 09.
[34] On the process of affiliation, see generally Matthew Hoddie, "Ethnic Identity Change in the People's Republic of China: An Explanation Using Data From the 1982 and 1990 Census Enumerations," in Nationalism and Ethnoregional Identity in China, ed. William Safran (London: Frank Cass, 1998), 119–141.
[35] As one example, the Baima Zangzu (White Horse Tibetans) have reportedly petitioned the government to reconsider their classification as a "branch" of the Tibetan ethnicity, asserting that they should have status as an independent ethnic group. See, e.g., "The White Horse Tibetans' Tomorrow" [Baima zangzu ren de mingtian], Nanfeng Chuang (Online), 19 July 08; Ashild Kolås and Monika P. Thowsen, On the Margins of Tibet (Seattle: University of Washingon Press, 2005), 41–42. For other examples, see, e.g., Colin Mackerass, China's Ethnic Minorities and Globalisation (London: RoutledgeCurzon, 2003), 2–3. See also Stipulations Concerning Chinese Citizens Determining Ethnic Identity [Guanyu zhongguo gongmin queding minzu chengfen de guiding], issued 10 May 90, effective 10 May 90, art. 1.
[36] For example, in its 2009 policy directive on strengthening propaganda on ethnic issues, the government asserted that the Chinese state had existed throughout history as a unified entity, save for brief aberrations during "temporary" periods of division. Central Propaganda Department and State Ethnic Affairs Commission, Outline Concerning Propaganda and Education on the Party and State's Ethnic Policy [Dang he guojia minzu zhengce xuanchuan jiaoyu tigang], estimated date February 2009. For an overview of historiography on one area within the borders of the People's Republic of China, see generally Gardner Bovingdon with contributions by Nabijan Tursun, "Contested Histories," in Xinjiang: China's Muslim Borderland, ed. S. Frederick Starr (Armonk, NY: M.E. Sharpe, 2004). In the past year, the government also continued to pro-

mote government-defined historical accounts of Tibet to justify current Chinese policy in its March 2009 white paper on Tibet. State Council Information Office, Fifty Years of Democratic Reform in Tibet, reprinted in Xinhua (Online), 2 March 09.

[37] State Administration of Radio, Film, and Television, July 2009 Circular on Publicizing the Putting on Record of Nationwide Production of TV Dramas [Guangdian zongju guanyu 2009 nian 7 yue quanguo paishe zhizuo dianshiju bei'an gongshi de tongzhi], 20 July 09. See also "China's TV Watchdog Warns Against Historically Inaccurate Shows," Xinhua, reprinted in People's Daily (Online), 24 July 09.

[38] See, e.g., the discussion in "Demolition of Kashgar's Old City Draws Concerns Over Cultural Heritage Protection, Population Resettlement," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 2, as well as the discussion in Rachel Harris, The Making of a Musical Canon in Chinese Central Asia: The Uyghur Twelve Muqam (Burlington, VT: Ashgate, 2008), 109–136.

[39] "Efforts Called To Protect Intangible Cultural Heritage," Xinhua, reprinted in China Internet Information Center (Online), 14 February 06.

[40] In addition to Section IV—Xinjiang, see also "Demolition of Kashgar's Old City Draws Concerns Over Cultural Heritage Protection, Population Resettlement," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 2.

[41] "China Now Has Over 60 Million Ethnic Minority Citizens Using Their Own Ethnic Minority Languages" [Zhongguo xianyou 6000 duo wan shaoshu minzu gongmin shiyong ben minzu yuyan], Xinhua, reprinted in China Ethnicities News (Online), 8 June 09.

[42] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. III(1).

[43] "China Issues Plans To Promote Ethnic Cultural Development," Xinhua (Online), 24 July 09, describing State Council Opinions on Furthering the Prospering and Development of Ethnic Minorities' Cultural Undertakings [Guowuyuan guanyu jinyibu fanrong fazhan shaoshu minzu wenhua shiye de ruogan yijian], issued 5 July 09.

[44] State Council Opinions on Furthering the Prospering and Development of Ethnic Minorities' Cultural Undertakings [Guowuyuan guanyu jinyibu fanrong fazhan shaoshu minzu wenhua shiye de ruogan yijian], issued 5 July 09, arts. 7, 8, 12, 16.

[45] See Special Focus for 2005: China's Minorities and Government Implementation of the Regional Ethnic Autonomy Law, CECC, 2005 Annual Report, 11 October 05, 14.

[46] Regional Ethnic Autonomy Law, enacted 31 May 84, effective 1 October 84, amended 28 February 01, art. 36.

[47] State Council Provisions on Implementing the PRC Regional Ethnic Autonomy Law [Guowuyuan shishi "Zhonghua renmin gongheguo minzu quyu zizhifa" ruogan guiding], issued 19 May 05, effective 31 May 05, art. 22.

[48] Mette Halskov Hansen, "The Challenges of Sipsong Panna in the Southwest," in Governing China's Multiethnic Frontiers, ed. Morris Rossabi (Seattle: University of Washington Press, 2004), 66–67.

[49] See discussion within for more information.

[50] For details on pressures from migration as they affect culture, language, and environment, see generally Uradyn E. Bulag, "The Dialectics of Colonization and Ethnicity Building," in Governing China's Multiethnic Frontiers, ed. Morris Rossabi (Seattle: University of Washington Press, 2004), 84–116; Uradyn E. Bulag, "Mongolian Ethnicity and Linguistic Anxiety in China," American Anthropologist, Vol. 105, No. 4, December 2003, 753–763; Dee Mack Williams, Beyond Great Walls (Stanford: Stanford University Press, 2002).

[51] "Beijing Spring and Autumn: Discrimination Against the Minorities," Keizai Shinbun, translated and reprinted in Southern Mongolian Human Rights Information Center (Online), 23 February 09.

[52] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09.

[53] "Inner Mongolia: Purposeful Occupational Training for Young Farmers and Herders Has Positive Effect" [Neimenggu: "you mudi" peixun qingnian nongmumin jiuye xiaoguo hao], Xinhua (Online), 29 March 09.

[54] "Inner Mongolia Autonomous Region Plans in 2009 To Newly Increase Employment for Over 200,000 People" [2009 nian neimenggu zizhiqu jihua xinzeng jiuye 20 wan ren yishang], Xinhua Inner Mongolia (Online), 26 March 09.

[55] Opinion on the Implementation of Work Concerning the Development of Support and Aid for "Zero Occupation Households" [Guanyu kaizhan quanqu nongcun muqu "ling zhuanyi jiating" jiuye zhuangxiang yuanzhu gongzuo de shishi yijian], 17 March 09. See also Inner Mongolia Autonomous Region People's Government General Office, Notice Concerning Work on the Development of Earmarked Employment Aid for "Zero Occupation Families" in the Countryside and Pastoral Areas [Neimenggu zizhiqu renmin zhengfu bangongting guanyu kaizhan nongcun muqu "ling zhuanyi jiating" jiuye zhuanxiang yuanzhu gongzuo de tongzhi], issued 21 January 09.

[56] See, e.g., China's Regional Ethnic Autonomy Law: Does It Protect Minority Rights? Staff Roundtable of the Congressional-Executive Commission on China, 11 April 05, Written Statement of Christopher P. Atwood, Associate Professor, Department of Central Eurasian Studies, Indiana University. For additional information, see generally Dee Mack Williams, Beyond Great Walls (Stanford: Stanford University Press, 2002); Southern Mongolian Human Rights Information Center (Online), "Statement of Enhebatu Togochog at the 'Ethnicity With Chinese Characteristics? The Chinese State and Tibetan, Uyghur and Mongol Identities' Conference by the National Endowment for Democracy," 5 December 08.

[57] See, e.g., China's Regional Ethnic Autonomy Law: Does It Protect Minority Rights? Staff Roundtable of the Congressional-Executive Commission on China, 11 April 05, Testimony of

Christopher P. Atwood, Associate Professor, Department of Central Eurasian Studies, Indiana University.

[58] Gregory Veeck and Charles Emerson, "Develop the West Assessed: Economic and Environmental Change in Inner Mongolia Autonomous Region, People's Republic of China 2000–2005," Asian Geographer, Vol. 25, Nos. 1 and 2, 2006, 61 (based on information on page 12 of pre-publication copy of article on file with the Commission).

[59] See, e.g., Gregory Veeck and Charles Emerson, "Develop the West Assessed: Economic and Environmental Change in Inner Mongolia Autonomous Region, People's Republic of China 2000–2005," Asian Geographer, Vol. 25, Nos. 1 and 2, 2006, 61 (based on information on page 13 of pre-publication copy of article on file with the Commission); China's Regional Ethnic Autonomy Law: Does It Protect Minority Rights? Staff Roundtable of the Congressional-Executive Commission on China, 11 April 05, Testimony of Christopher P. Atwood, Associate Professor, Department of Central Eurasian Studies, Indiana University; Dee Mack Williams, Beyond Great Walls (Stanford: Stanford University Press, 2002), 40–60; Qiu Lin, "Scholars Urge Improving Grassland Policies," Xinhua (Online), 31 July 09.

[60] See Regulation on Inner Mongolia Autonomous Region Mongolian Language Work [Neimenggu zizhiqu mengu yuyan wenzi gongzuo tiaoli], issued 26 November 04, effective 1 May 05. For more information, see "Inner Mongolia Government Promotes Mongolian Language," CECC China Human Rights and Rule of Law Update, September 2006, 10–11.

[61] "31st Standing Committee Meeting of 10th Inner Mongolia Autonomous Region People's Congress Holds Group Deliberation" [Neimenggu shi jie renda changweihui di 31 ci huiyi juxing fenzu shenyi], Inner Mongolia News Net (Online), 29 November 07.

[62] Inner Mongolia Autonomous Region People's Government Opinion Regarding Strengthening Work on Ethnic Education [Neimenggu zizhiqu renmin zhengfu guanyu jinyibu jiaqiang minzu jiaoyu gongzuo de yijian], issued 16 October 07, II(1), IV(1).

[63] "Students in Baotao City, Inner Mongolia, Who Have Classes in Mongolian Get 12 Years of Free Education" [Neimenggu baotong shi mengguyu shouke xuesheng 12 nian quan mianfei], China Ethnicities News (Online), 2 January 09; "Chinese People's Political Consultative Conference Member Daiqinggerile: Ethnic Minority Education Will Get Better" [Zhengxie weiyuan daiqinggerile: minzujiaoyu hui yue lai yue hao], Xinhua Inner Mongolia (Online), 1 January 09; "Inner Mongolia: 170 Million [Yuan] Subsidy for Mongolian-Language Boarding School Students" [Neimenggu: xinzeng 1.7 yi buzhu mengyu shouke jisu xuesheng], China Shuobo Net (Online), 28 May 09.

[64] Southern Mongolian Human Rights Information Center (Online), "Mongolian Internet Forum Closed for Discussing Ethnic Problems," 16 July 07; "Two Ethnic Minority Web Sites in Inner Mongolia Closed," CECC China Human Rights and Rule of Law Update, July 2006, 14; "Authorities Close Two Mongolian-Language Web Sites for Posting 'Separatist' Materials," CECC China Human Rights and Rule of Law Update, November 2005, 13–14. In addition, in 2009, the Web master of a Mongolian discussion site said authorities questioned him about the contents of the site, including whether it had connections to foreign countries and whether participants had posted articles on the independence of Mongols, Uyghurs, and Tibetans. Southern Mongolian Human Rights Information Center (Online), "Southern (Inner) Mongolian Web Administrator Questioned," 22 June 09. Operation of this site and others was suspended in advance of the 60th anniversary of the founding of the People's Republic of China. Southern Mongolian Human Rights Information Center (Online), "Continuing Shutdown and Blocks of Mongolian Internet Sites by Chinese Government," 18 September 09.

[65] Southern Mongolian Human Rights Information Center (Online), "Ms. Xinna's Statement on 'Charter 08,'" 19 January 09.

[66] Authorities had detained Naranbilig for 20 days in 2008 in connection with his plans to attend the UN Permanent Forum on Indigenous Issues and with his broader activities advocating for the rights of ethnic Mongols. The same month, authorities also detained Tsebegjab and held him for over a month for his alleged ties to overseas Mongolian activists. For information on these cases, see the CECC Political Prisoner Database and CECC, 2008 Annual Report, 31 October 2008, 94.

[67] Southern Mongolian Human Rights Information Center (Online), "SMHRIC Statement (1) to the United Nations Permanent Forum for Indigenous Issues 8th Session," 28 May 09.

[68] While in prison, Hada has been subject to abuse, and authorities have harassed his wife and son. See the CECC Political Prisoner Database for more information on Hada's case. For information on harassment of his family members, see "Authorities Try Mongol Couple, Assault Son of Imprisoned Mongol Activist," CECC China Human Rights and Rule of Law Update, August 2006, 2.

[69] See the CECC Political Prisoner Database for more information, as well as, e.g., Southern Mongolian Human Rights Information Center (Online), "Statement of Enhebatu Togochog at the 'Ethnicity With Chinese Characteristics? The Chinese State and Tibetan, Uyghur and Mongol Identities' Conference by the National Endowment for Democracy," 5 December 08; Southern Mongolian Human Rights Information Center (Online), "Jaranbayariin Soyolt Released and Deported Back to Mongolia," 19 June 08.

Notes to Section II—Population Planning

[1] The population planning policy was first launched in 1979, canonized as a "fundamental state policy" in 1982, and codified as national law in 2002. As of 2007, 19 of China's 31 provinces—accounting for 53.6 percent of China's population—allow rural dwellers to have a second child if their first child is a girl. Gu Baochang et al., "China's Local and National Fertility Policies at the End of the Twentieth Century," 33 Population and Development Review 133, 138 (2007).

[2] David Barboza, "1 Plus 1: Shanghai Tweaks Child Rules," New York Times (Online), 25 July 09; Sky Canaves, "Shanghai Pushes Two-Child Policy," Wall Street Journal (Online), 24 July 09.

[3] For example, officials in Huanggang township (Xiushui county, Jiangxi province) described a family planning campaign in July 2009 that focused on the "two inspections and four procedures" (*liangjian sishu*), which refer to IUD inspections, pregnancy examinations (the two inspections), IUD implants, first-trimester abortions, mid- to late-term abortions, and sterilization (the four procedures). See Xiushui County Population and Family Planning Committee (Online), "Huanggang Township's Statement at the Xiushui County 2009 Population and Family Planning Work Dispatch Meeting" [Huanggangzhen zai 2009 nian quanxian renkou he jihua shengyu gongzuo diaoduhui fayan], 15 July 09.

[4] For example, in Fujian province's Sha county, family planning officials are required to insert an IUD in women within three months of the birth of a first child. Sha County Zhenghu Township People's Government (Online), "Recommendations Regarding Zhenghu Township's Population and Family Planning Work for 2009" [Guanyu zuohao 2009 nian zhenghu xiang renkou yu jihua shengyu gongzuo de yijian], 25 March 09.

[5] CECC, 2006 Annual Report, 20 September 06, 109; Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, 2008 Human Rights Report: China (includes Tibet, Hong Kong, and Macau), 25 February 09, 6; UN Committee against Torture, Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture—China, CAT/C/CHN/CO/4, 12 December 08, para. 29.

[6] CECC, 2007 Annual Report, 10 October 07, 108.

[7] The PRC Population and Family Planning Law became effective in 2002. Beijing Declaration and Platform for Action (1995), para. 17; Cairo International Conference on Population and Development, para. 7.2. On the concept of "illegal pregnancy" and its use in practice, see Elina Hemminki, et al., "Illegal Births and Legal Abortions—The Case of China," Reproductive Health 2, No. 5 (2005).

[8] Convention on the Elimination of All Forms of Discrimination Against Women, adopted and opened for signature, ratification, and accession by UN General Assembly resolution 34/180 of 18 December 79, entry into force 2 September 81, arts. 2, 3, 16(1)(e).

[9] Convention on the Rights of the Child, adopted and opened for signature, ratification, and accession by UN General Assembly resolution 44/25 of 20 November 89, entry into force 2 September 90, arts. 2, 3, 4, 6, 26.

[10] International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 3 January 76, art. 10(3).

[11] UN Committee against Torture, Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture—China, CAT/C/CHN/CO/4, 12 December 08, para. 29.

[12] Yudu County People's Government (Online), Circular Regarding the Transmission of "Ganzhou Municipality Work Program for Collection of Social Compensation Fees" [Guanyu zhuanfa "ganzhou shi shehui fuyangfei zhengshou guanli gongzuo fang'an" de tongzhi], 25 February 09.

[13] Ibid.

[14] Anxi County People's Government (Online), Circular on Lauching Population and Family Planning Routine Work and Concentrated Service Activities [Guanyu kaizhan renkou he jihua shengyu changgui gongzuo jizhong fuwu huodong de tongzhi], 18 February 09.

[15] Qianguo Erluosi Mongol Autonomous County Population and Family Planning Commission (Online), Qianguo County Population and Family Planning Bureau's 2008 Work Summary and 2009 Work Plan [Qianguo xian renkou he jihua shengyu ju 2008 nian gongzuo zongjie he 2009 nian gongzuo anpai], 20 October 08.

[16] Tongliang County People's Government (Online), Tongliang County Population and Family Planning "Two-Way Encouragement Model of Pre-Pregnancy Management" Project Implementation Plan (Trial) [Tongliang xian renkou he jihua shengyu "shuangxiang jili xing yunqian guanli" xiangmu shishi fang'an (shixing)], 8 July 08.

[17] Shanxi Provincial Population and Family Planning Regulations, originally passed 6 April 99, revised 28 November 08, effective 1 June 09, art. 53.

[18] "Fuzhou Penalizes Notables and Affluent Who Exceed Birth Quotas, Fined 300,000 Yuan for Having Two More Children Than the Law Allows" [Fuzhou chufa mingren furen chaosheng duosheng liangtai bei fa 30 wan yuan], Xinhua (Online), 5 March 09.

[19] Li Qiumeng, "City Residents Who Report Out-of-Plan Pregnancies Will Receive Material Rewards" [Shimin jubao chaosheng jianghuo wuzhi jiangli], Beijing Times (Online), 19 March 09.

[20] Chun'an County People's Government (Online), Circular on the Implementation of Family Planning Informants' Reward System [Guanyu shixing jihua shengyu youjiang jubao zhidu de tongzhi], 18 April 09.

[21] Binzhou District Population and Family Planning Commission (Online), Yangxin County Family Planning Measures for Rewarding Informants [Yangxin xian jihua shengyu youjiang jubao banfa], 16 July 09.

[22] PRC Population and Family Planning Law, enacted 29 December 01, art. 39.

[23] Ibid., art. 33.

[24] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, 2008 Human Rights Report: China (includes Tibet, Hong Kong, and Macau), 25 February 09, 6.

[25] For an official source that admits to mandatory abortions in the third term, see Jiujiang Municipal Population and Family Planning Commission (Online), "Jiujiang County Family Planning Commission Braves the Summer's Intense Heat and Insists on Entering Villages and Homes To Direct and Supervise Family Planning Work" [Jiujiang xian jishengwei mao kushu jianchi jincun ruhu jiandao jisheng gongzuo], 17 July 09. For recent examples of cases of forced abortions in the third trimester, see Michael Sheridan, "Women Rebel Over Forced Abortions," Times of London (Online), 15 February 09; "Shandong's Barbarous Family Planning, Mother and Child Both Die" [Shandong yeman jisheng muzi shuangwang], Radio Free Asia (Online), 18 June 09.

[26] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, 2008 Human Rights Report: China (includes Tibet, Hong Kong, and Macau), 25 February 09, 6.

[27] These provinces include Fujian, Zhejiang, Guangdong, Chongqing, Yunnan, Guizhou, Hunan, Jiangxi, Jiangsu, Anhui, and Jilin. For two representative examples (Jiangsu and Fujian), see Jiawang District People's Government (Online), Circular on the "Month of Concentrated Corrective Activities" for Population and Family Planning [Guanyu zuohao renkou he jihua shengyu "jizhong zhengzhi huodong yue" de tongzhi], 2 November 08. This report explicitly calls for officials to "resolutely implement first-trimester and mid- to late-term abortions and other remedial measures" (*jianchi luoshi liu yinchan deng bujiu cuoshi*). In addition, a report from a village in Fujian's Wuyishan county states the following: "In emergency situations when pregnancies violate family planning policies, report the matter to the village committee and promptly carry out remedial measures (first-trimester abortion or mid- to late- term abortion)." Wuyishan County People's Government (Online), Sandu Village Family Planning Village Regulations [Sandu cun jihua shengyu cungui minyue], 4 June 09.

[28] Michael Sheridan, "Women Rebel Over Forced Abortions," Times of London (Online), 15 February 09.

[29] Ibid.

[30] Chinese Human Rights Defenders (Online), "Jiangsu's Sihong County: Family Planning Bureau Violently Inspects Pregnancies" [Jiangsu sihong xian jisheng bumen baoli yunjian], 25 April 09.

[31] John Pomfret, "Forced Abortions Shake Up China Wombs-for-Rent Industry," Reuters (Online), 30 April 09.

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[34] Jiawang District People's Government (Online), Circular on the "Month of Concentrated Corrective Activities" for Population and Family Planning [Guanyu zuohao renkou he jihua shengyu "jizhong zhengzhi huodong yue" de tongzhi], 2 November 08.

[35] Ibid.

[36] Kaili City People's Government (Online), Opinion on Going Further To Strengthen and Complete Examinations of Women [Guanyu jinyibu jiaqiang he zuohao fujian gongzuo de yijian], 12 November 08.

[37] Ibid.

[38] Changfeng County Population and Family Planning Committee (Online), Circular on the Concentrated Launch of Sorting Out and Examination Work for Population and Family Planning in the Entire County [Guanyu zai quanxian jizhong kaizhan jihua shengyu qingli hecha gongzuo de tongzhi], 11 December 08.

[39] Yanjin County People's Government (Online), Niuzhai Township 2009 Implementation Opinion for Population and Family Planning Work [Niuzhai xiang 2009 nian renkou yu jihua shengyu gongzuo shishi yijian], 30 December 08.

[40] Yunnan Provincial People's Government (Online), Decision To Go Further in Implementing Cash Rewards and Punishments for Those Responsible for Investigating Population and Family Planning Work (Trial) [Guanyu jinyibu luoshi renkou yu jihua shengyu gongzuo zeren zhuijiu jiangcheng duixian de jueding (shixing)], 21 December 08.

[41] Anxi County People's Government (Online), Circular on Lauching Population and Family Planning Routine Work and Concentrated Service Activities [Guanyu kaizhan renkou he jihua shengyu changgui gongzuo jizhong fuwu huodong de tongzhi], 18 February 09.

[42] "RFA Exclusive: Fujian Xianyou County Violently Carries Out Family Planning, 8-9 Month Pregnant Women Forced To Abort, Family Members Persecuted" [Fujian xianyou baoli jisheng bajiu yue zhaoliu qinshu shou zhu], Radio Free Asia (Online), 12 May 09.

[43] Ibid. Family planning officials justified the forced abortion because the young woman had not reached the legal age in which parenthood is permitted. Fujian Population and Family Planning Regulations stipulate that women have to reach the age of 23 and men must be 25 before they can legally become parents.

[44] Wuyishan County People's Government (Online), Sandu Village Family Planning Village Regulations [Sandu cun jihua shengyu cungui minyue], 4 June 09.

[45] Jinyun County People's Government (Online), Shuhong Township Implementation Plan for Family Planning Activities Month of "Seizing the Three Inspections, Promoting Long-Term Effectiveness, Strengthening the Foundation" [Shuhong zhen "zhua sancha, cu changxiao, qiang jichu" jihua shengyu huodong yue shishi fang'an], 13 April 09.

[46] Ibid.

[47] Kunming Municipality Provisions for Temporary Wage Deductions for Family Planning for the Floating Population [Kunming shi luidong renkou jihua shengyu guanli zhanshixing koukuan guiding], enacted 29 November 06, effective 1 January 07.

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[49] Ibid, art. 8.

[50] Jiawang District People's Government (Online), Circular on the "Month of Concentrated Corrective Activities" for Population and Family Planning [Guanyu zuohao renkou he jihua shengyu "jizhong zhengzhi huodong yue" de tongzhi], 2 November 08.

[51] Sha County Zhenghu Township People's Government (Online), Opinion Regarding Zhenghu Township's Population and Family Planning Work for 2009 [Guanyu zuohao 2009 nian zhenghu xiang renkou yu jihua shengyu gongzuo de yijian], 25 March 09.

[52] Ibid.

[53] Guidong County People's Government (Online), "Huangdong Township Masters the Distinct Features of Family Planning Work" [Huangdong xiang zhua jihua shengyu tese gongzuo], 30 June 09.
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[55] Panyue District Shiqi Township People's Government (Online), "Monthly Family Birth Control Awards for Rural Family Planning" [Nongcun jihua shengyu jiating jieyu jiangjinyue yueyou], 27 October 08.
[56] Population and Family Planning Commission of the Inner Mongolia Autonomous Region (Online), Supplementary Circular on "Implementation Measures for the Inner Mongolia Autonomous Region Family Planning Awards for Sterilized Households With Two Daughters" [Guanyu yinfa "neimenggu zizhiqu jihua shengyu shuangnu jieza hu jiangli gongzuo shishi banfa" de buchong tongzhi], 21 November 08.
[57] Longgang District People's Government (Online), Circular on the Offering of Subsidies to Registered Households in Our District That Actively Carry Out Remedial Measures [Guanyu dui woqu huji renkou zhudong luoshi bujiu cuoshi jinxing buzhu de tongzhi], 31 March 09.
[58] For more information on the importance of incentive structures for local officials in China, see Jean C. Oi, Rural China Takes Off: Institutional Foundations of Economic Reform (Los Angeles: University of California Press, 1999).
[59] Wuyishan County People's Government (Online), "2009–2010 Shangmei Township Village Family Planning Responsibility Manual" [2009–2010 nian shangmei xiangcun jisheng zeren shu], 16 January 09.
[60] Ibid.
[61] Yunnan Provincial People's Government (Online), Dasi Township People's Government Circular on Assessment Measures for Rewards and Penalties for 2009 Population and Family Planning Responsibility Objectives [Dasi xiang renmin zhengfu guanyu yinfa 2009 nian renkou yu jihua shengyu zeren mubiao kaohe jiangcheng banfa de tongzhi], 15 April 09.
[62] Ibid.
[63] CECC, 2008 Annual Report, 31 October 08, 98. In April 2008, Chen filed a lawsuit alleging that Linyi officials had "trumped up charges" against him in retaliation for his efforts to expose their misdeeds. Chen also wrote a detailed letter to the Chief Justice of the Supreme People's Court and the Procurator-General of the Supreme People's Procuratorate to protest his imprisonment and petition for release. Li Jinsong, Chinese Human Rights Defenders (Online), "Chen Guangcheng Sues Li Qun, Liu Jie, and Other Officials for Trumped Up Charges and Retaliation" [Chen guangcheng konggao li qun liu jie deng shexian fanyou baofu xianhai zui zhi, gongmin bao'an konggao han], 5 April 08.
[64] Cited in "Chen Guangcheng Discriminated Against in Prison; Wife Barred From Leaving Home" [Chen guangcheng yuzhong shou qishi, qizi jixu bei boquan], Radio Free Asia (Online), 21 November 07. See Cai Jin, "Imprisoned Rights Defenders Guo Feixiong, Chen Guangcheng Prevented From Communicating With Families, Lawyers Stress Constitution Provides Freedom of Communication" [Xianyu weiquanzhe guo feixiong chen guangcheng jia tongxun shouzu, lushi qiangdiao xianfa fuyu gongmin tongxun ziyou], Boxun (Online), 27 November 07; Chinese Human Rights Defenders (Online), "Chen Guangcheng, Human Rights Defender in Prison, Update: Officials Ignored Requests for Medical Parole and for Filing Complaints to Higher Court About Verdict," 23 March 07; Zhang Min, Chinese Human Rights Defenders (Online), "With the Paralympics Close, Imprisoned Blind Rights Activist Chen Guangcheng's Family Members, Villagers, and Lawyers Have Had Cellular Communications Obstacles" [Canao jin, yuzhong mangren weiquanzhe chen guangcheng jiaren, cunmin ji lushi shouji tongxun zhang'ai], 3 September 08.
[65] "Chen Guangcheng Not in Good Health and Yuan Weijing Beaten, Hong Kong's China Human Rights Watch Lends Support" [Chen guangcheng shenti qianjia ji yuan weijing bei ou, xianggang zhongguo weiquan lushi guanzhu zu shengyuan], Radio Free Asia (Online), 22 April 09.
[66] For full account, see, e.g., "Reflections on a Visit to Chen Guangcheng's Family, We Were Beaten Out of the Village," Wang Keqin's Blog (Online), 14 March 09.
[67] Ibid.
[68] "Chen Guangcheng Not in Good Health and Yuan Weijing Beaten, Hong Kong's China Human Rights Watch Lends Support" [Chen guangcheng shenti qianjia ji yuan weijing bei ou, xianggang zhongguo weiquan lushi guanzhu zu shengyuan], Radio Free Asia (Online), 22 April 09; Amnesty International (Online), "China: Wife of Human Rights Activist Beaten," 20 April 09.
[69] "Reflections on a Visit to Chen Guangcheng's Family, We Were Beaten Out of the Village," Wang Keqin's Blog (Online), 14 March 09; Amnesty International (Online), "China: Wife of Human Rights Activist Beaten," 20 April 09.
[70] Wei Xing Zhu, Li Lu, and Therese Hesketh, "China's Excess Males, Sex Selective Abortion, and One Child Policy: Analysis of Data From 2005 National Intercensus Survey," British Medical Journal (Online), 9 April 09, 6.
[71] Ibid, 3.
[72] Ibid, 1.
[73] "China Has 37 Million More Males Than Females," People's Daily (Online), 10 July 07; State Council National Working Committee on Children and Women, "Adjusting Sex Ratio Imbalance Should Be Done Without Delay" [Zhili "xingbie shiheng" keburonghuan], 6 July 07.
[74] Barry Naughton, The Chinese Economy: Transitions and Growth (Cambridge, MA: MIT Press, 2007), 171–172.
[75] State Council National Working Committee on Children and Women (Online), "Adjusting Sex Ratio Imbalance Should Be Done Without Delay" [Zhili "xingbie shiheng" keburonghuan], 6 July 07.

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[80] "Abortion Law Amendment To Be Abolished," China Daily, reprinted in Xinhua (Online), 26 June 06; Andrew Yeh, "China Retreats on Selective Abortion Law Plan," Financial Times (Online), 25 June 06.

[81] Population and Family Planning Commission of Guizhou (Online), "Guizhou Province Bans Non-Medically Necessary Sex Identification Procedures and Sex Selective Abortions" [Guizhou sheng jinzhi fei yixue xuyao de taier xingbie jianding he xuanze xingbie zhongzhi renshen guiding], 27 December 06; Population and Family Planning Commission of Zaozhuang City (Online), "Shandong Province Bans Non-Medically Necessary Sex Identification Procedures and Sex Selective Abortions" [Shandong sheng jinzhi fei yixue xuyao jianding tai'er xingbie he xuanze xingbie zhongzhi renshen guiding], 18 April 08; Population and Family Planning Commission of Zhongxiang City (Online), "Hubei Province Bans Non-Medically Necessary Sex Identification Procedures and Sex Selective Abortions" [Hubei sheng jinzhi fei yixue xuyao jianding tai'er xingbie he xuanze xingbie zhongzhi renshen guiding], 3 July 07; Population and Family Planning Commission of Taiyuan City (Online), "Shanxi Province Bans Non-Medically Necessary Sex Identification Procedures and Sex Selective Abortions" [Shanxi sheng jinzhi fei yixue xuyao jianding tai'er xingbie he xuanze xingbie zhongzhi renshen guiding], 22 October 08; Population and Family Planning Commission of Gansu (Online), "Jiangsu Province Concerning Decision on Banning of Non-Medically Necessary Sex Identification Procedures and Sex Selective Abortions" [Jiangsu sheng guanyu jinzhi fei yixue xuyao tai'er xingbie jianding he xuanze xingbie rengong zhongzhi renshen de jueding], 27 December 06.

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Notes to Section II—Freedom of Residence

[1] PRC Regulations on Household Registration [Zhonghuarenmin gongheguo hukou dengji tiaoli], issued and effective 9 January 58.
[2] For a detailed discussion of the Chinese *hukou* system and related reforms, see China's Household Registration (*Hukou*) System: Discrimination and Reform, Staff Roundtable of the Congressional-Executive Commission on China, 2 September 05.
[3] For a fieldwork-based case study that discusses the impact of the *hukou* system, including provisions allowing family members of urban *hukou* holders to transfer their status, see Dorothy J. Solinger, "The Sad Story of Zheng Erji Who Landed in the City Through the Favors Reform-Era Policies Bestowed But Rewrote the Rules While Suffering Wrongs, Once There," in Narratives of the Chinese Economic Reforms, ed. Dorothy J. Solinger, (Lewiston, NY: The Edwin Mellen Press, 2005), 113–127, esp. 121, 123, 125.
[4] Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, arts. 2 and 13(1); International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, arts. 2(1), 12(1), 12(3), and 26.
[5] For a review of *hukou* reforms since 2005, see CECC, 2008 Annual Report, 31 October 2008, 103–112.
[6] "Officials' Early Response to Unemployment and 'Social Unrest' During Downturn," CECC China Human Rights and Rule of Law Update, No. 2, March 2009, 3; Raymond Li, "Plea To Make Job Hunt Easier for Graduates," South China Morning Post (Online), 17 February 09.
[7] "Employment Crisis Is Best Catalyst for Reform" [Jiuye weiji shi biange zuihao cuihuaji], Xinhua (Online), 17 February 09; "Time Is Ripe for 'Hukou' Reform," People's Daily, reprinted in Xinhua (Online), 17 February 09.
[8] State Council General Office, Circular Regarding Strengthening Employment for Graduates of Common Higher Educational Institutions [Guowuyuan bangongting guanyu jiaqiang putong gaodeng xuexiao biyesheng jiuye gongzuo de tongzhi], issued and effective 19 January 09, art. 2.
[9] Raymond Li, "Plea To Make Job Hunt Easier for Graduates," South China Morning Post (Online), 17 February 09.
[10] Trial Measures Regarding "Shanghai Residence Permit" Holders' Application for City's Permanent Hukou [Chiyou "shanghai shi juzhuzheng" renyuan shenban benshi changzhu hukou shixing banfa], issued and effective 12 February 09.
[11] Implementing Regulations on the Trial Measures Regarding "Shanghai Residence Permit" Holders' Application for City's Permanent Hukou [Chiyou "shanghai shi juzhuzheng" renyuan shenban benshi changzhu hukou shixing banfa shishi xize], issued 17 June 09.
[12] Trial Measures Regarding "Shanghai Residence Permit" Holders' Application for City's Permanent Hukou [Chiyou "shanghai shi juzhuzheng" renyuan shenban benshi changzhu hukou shixing banfa], issued and effective 12 February 09, arts. 5(1), 5(4), 5(5). Applicants must also have participated in the city's social security system and paid taxes, and must not have been subject to administrative punishments, have a more severe criminal record, or have exhibited

other bad behavior. Trial Measures Regarding "Shanghai Residence Permit" Holders' Application for City's Permanent Hukou [Chiyou "shanghai shi juzhuzheng" renyuan shenban benshi changzhu hukou shixing banfa], issued and effective 12 February 09, arts. 5(2), 5(3), 5(5).

[13] "Shanghai To Increase Numbers of Local Hukou Changed From Resident Permits" [Shanghai jiang zeng juzhuzheng luohu], Beijing News (Online), 18 February 09.

[14] "Shanghai Offers Permanent Residence for Some After 7 Years," Xinhua (Online), 24 February 09.

[15] "Policies To Allow Hukou Registration With New Home Purchases Cause Disputes" [Goufang ruhu zhengce yin zhengyi], Money Management Weekly, reprinted in Phoenix Net (Online), 27 April 09.

[16] "Allowing Hukou Registration With New Home Purchases: Half Flickering, Half Unfair" [Goufang ruhu: ban huyou ban bugong], Shanghai Securities News, reprinted in China Youth Net (Online), 19 February 09.

[17] "Guangdong To Establish New Measures To Reform Hukou Within Year" [Guangdong niannei zhiding huji gaige xin banfa], Southern Daily (Online), 24 February 09.

[18] "Lawyer Submits Recommendations to the State Council, Stating That Hukou System Violates Law" [Lushi xiang guowuyuan ji jianyishu zhi xianxing huji dengji zhidu weifa], China Youth Daily, reprinted in China Development Gateway (Online), 8 April 08. The Commission in 2006 reported that Communist Party scholars and government officials publicly raised the subject of *hukou* reform in October 2005, after the conclusion of the Party plenum. CECC, 2006 Annual Report, 20 September 06, 115. According to a national survey conducted in 2007 by the China Youth Daily and the popular Web site Sina.com, 91.7 percent of the 11,168 persons surveyed considered *hukou* reforms as "absolutely necessary." Untitled, Hukou Watch, No. 1, 8 March 09, 1.

[19] "Lawyer Submits Recommendations to the State Council, Stating That Hukou System Violates Law" [Lushi xiang guowuyuan ji jianyishu zhi xianxing huji dengji zhidu weifa], China Youth Daily, reprinted in China Development Gateway (Online), 8 April 08.

[20] Ibid.

[21] Cheng Hai has filed a series of lawsuits since 2007 that challenge the government's *hukou* policy. In February 2008, Cheng submitted a petition to Changping District Court in Beijing requesting that the court revoke his temporary residence permit registration. Cheng later filed a separate lawsuit against the Changping Public Security Bureau stating that the bureau's requirement of a temporary permit conflicts with more than 10 superior laws, including citizens' right to equal treatment as stipulated in the PRC Constitution. The case marked "the first *hukou* relocation lawsuit," according to Chinese media reports. Zan Aizong, "Cheng Hai Sued Beijing Public Security Bureau; Li Subin 'Correctified' the Hukou Regulations" [Cheng hai ba Beijing gonganju tuishang fating li subin wei hukou tiaoli boluan fanzheng], Epoch Times (Online), 23 August 07; "Lawyer Cheng Hai Sued Beijing City for Temporary Resident Permit" [Lushi cheng hai zhuanggao beijingshi banli zanzhuzheng xingwei weifa], Procuratorial Daily (Online), 3 March 08; "Lawyer Denied Hukou Relocation and Sued Public Security Bureau" [Lushi ziyou qianxi hukou zaoju zhuanggao gongan bumen], Beijing News, reprinted in China West (Online), 5 May 07; "Lawyer Submits Recommendations to the State Council, Stating That Hukou System Violates Law" [Lushi xiang guowuyuan ji jianyishu zhi xianxing huji dengji zhidu weifa], China Youth Daily, reprinted in China Development Gateway (Online), 8 April 08.

[22] "Lawyer Submits Recommendations to the State Council, Stating That Hukou System Violates Law" [Lushi xiang guowuyuan ji jianyishu zhi xianxing huji dengji zhidu weifa], China Youth Daily, reprinted in China Development Gateway (Online), 8 April 08.

[23] "Professor Submits Suggestion to the National People's Congress That Current Hukou System Violates Constitution" [Jiaoshou shangshu quanguo renda zhiyan xianxing huji zhidu youbei xianfa], China Legal News, reprinted in Sina (Online), 18 November 04.

[24] International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 12.

[25] PRC Passport Law, enacted 29 April 06, effective 1 January 07, art. 13(7). For an example of a beneficial provision within the law, see Article 6, which stipulates time limits for officials to approve applications and allows applicants to contest rejected applications.

[26] CECC, 2008 Annual Report, 31 October 08, 113.

[27] "On the Eve of World AIDS Day, Gao Yaojie's Family Pressured, Li Xige Continues To Be Under Supervision" [Shijie aizibing ri qianxi, gao yaojie jiaren shou daya, li xige chixu shou jiankong], Radio Free Asia (Online), 2 November 08.

[28] See, e.g., Hu Jia, Chinese Human Rights Defenders (Online), "Henan Government Places Professor Gao Yaojie Under Illegal Residential Surveillance Because She Planned To Go to United States To Receive Award" [Gao yaojie jiaoshou yinzhunbei fumei lingjiang erbei henan zhengfu feifa jujin], 4 February 07; Jim Yardley, "China Covers Up Detention of AIDS Doctor," New York Times (Online), 16 February 07.

[29] ChinaAid (Online), "Radio Free Asia Reports on Secretary of State Hillary Clinton's Visit to China; Many Christians and Pro-Democracy Activists Placed Under Surveillance," 26 February 09; Christopher Bodeen, "Dissidents Held During Clinton Beijing Visit," Associated Press (Online), 21 February 09.

[30] Paul Richter and Barbara Demick, "Hillary Clinton, China Officials Agree To Put Human Rights Discussions on a Separate Track," Los Angeles Times (Online), 22 February 09. Beijing Public Security Bureau officers stopped Zeng when she tried to leave her home on the eve of the 20th anniversary of the 1989 Tiananmen protests in early June. "Zeng Jinyan Prevented From Leaving Home, Several Individuals in Zhejiang Come Under Pressure" [Zeng jinyan bei xianzhi chumen, zhejiang duo wei renshi zao da ya], Radio Free Asia (Online), 3 June 09.

[31] "Mainland Chinese Who Were Suppressed During June 4 Period Plan To Take Legal Action" [Liusi qijian zao daya de dalu renshi jihua caiqu falu xingdong], Radio Free Asia (Online), 7 June 09. For more information concerning Ding's treatment during the 20th anniversary of the Tiananmen protests, see Jane Macartney, "China Cracks Down on Mourners on Tiananmen

Massacre Anniversary," Times Online (Online), 4 June 09; Hong Kong Information Center for Human Rights and Democracy, "PRC: Dissidents Kept Under Surveillance During '4 June' Incident Anniversary," 3 June 09 (Open Source Center, 3 June 09).

[32] "Ding Zilin and Husband To Leave Beijing Tomorrow 'Accompanied' by State Security" [Ding zilin fufu mingri jiang zai guoan "peitong" xia li jing], Radio Free Asia (Online), 8 June 09.

[33] "Citizens From Various Sectors Stripped of Their Rights on June 4, Signatories of Charter 08 Become a Symbol" [Ge lingyu gongmin liusi zao boquan, tong shu ling ba xianzhang cheng biaozhi], Radio Free Asia (Online), 10 June 09; Chinese Human Rights Defenders (Online), "Human Rights Defense Lawyer Pu Zhiqiang Taken Away by Police on June 2, Still Unable To Return Home" [Weiquan lushi pu zhiqiang 6 yue 2 ri bei jingcha daizou dao zhi jin], 5 June 09.

[34] Dan Martin, "Key Tiananmen Dissident Still Defiant, 20 Years On," Agence France-Presse, reprinted in AsiaOne News (Online), 31 May 09.

[35] "Officials Remove Dissidents From Capital, Start 24/7 Surveillance," Agence France-Presse, reprinted in South China Morning Post (Online), 28 May 09; Robert J. Saiget, "China Clamps Down Ahead of Tiananmen Anniversary," Agence France-Presse (Online), 2 June 09.

[36] Chinese Human Rights Defenders (Online), "Writer Liao Yiwu Prohibited From Leaving the Country Again" [Zuojia liao yiwu zaici beijinzhi chujing], 6 May 09. Authorities reportedly had issued Liao a passport several months before his planned visit to Australia. "Yao Lifa Monitored and Liao Yiwu Prevented From Exiting the Country" [Yao lifa shoudao jiankong liao yiwu beizu chujing], New Tang Dynasty Television (Online), 8 May 09.

[37] "Internet Writer Zan Aizong Prevented From Exiting the Country" [Wangluo zuojia zan aizong zaici beizu chujing], Radio Free Asia, reprinted in New Century News (Online), 19 March 09; Chinese Human Rights Defenders (Online), "Cai Chu: Zan Aizong Blocked at Hangzhou Airport on His Way to Hong Kong on July 1" [Cai Chu: zan aizong qi yi fugang bei dangzai hangzhou jichang], 1 July 09.

[38] Chinese Human Rights Defenders (Online), "Feng Zhenghu's Letter to United States Speaker of the House Nancy Pelosi" [Feng zhenghu zhi meiguo zhongyiyuan yizhang poluoxi nushi de xin], 10 July 09; Chinese Human Rights Defenders (Online), "Feng Zhenghu Blocked at Japanese Airport During 6th Attempt To Return to China" [Feng zhenghu di liuci huiguo zai riben jichang shouzu], 18 July 09; Chinese Human Rights Defenders (Online), "Feng Zhenghu Passes Barrier and Arrives in Shanghai on His 7th Attempt" [Feng zhenghu di 7 ci huiguo chuangguan dida shanghai], 1 August 09.

[39] Chinese Human Rights Defenders (Online), "Feng Zhenghu's Letter to United States Speaker of the House Nancy Pelosi" [Feng zhenghu zhi meiguo zhongyiyuan yizhang poluoxi nushi de xin], 10 July 09; Chinese Human Rights Defenders (Online), "Feng Zhenghu Blocked at Japanese Airport During 6th Attempt To Return to China" [Feng zhenghu di liuci huiguo zai riben jichang shouzu], 18 July 09.

[40] Chinese Human Rights Defenders (Online), "Feng Zhenghu Passes Barrier and Arrives in Shanghai on His 7th Attempt" [Feng zhenghu di 7 ci huiguo chuangguan dida shanghai], 1 August 09.

[41] Chinese Human Rights Defenders (Online), "Feng Zhenghu's Letter to Chinese Head of State Hu Jintao" [Feng zhenghu zhi zhongguo guojia zhuxi hujintao de xin], 10 September 09.

[42] "Dissidents Say China Extremely Difficult With Passport and Visa Applications" [Yiyirenshi zhi zhongguo diaonan huzhao qianzheng shenqing], Voice of America (Online), 18 April 09.

[43] "Wu'er Kaixi Denied Entrance Into Macau, Returned to Taipei" [Wu'er kaixi bei aomen ju rujing qianfan taibei], China Times (Online), 3 June 09.

[44] "Hong Kong Denies Entry to Tiananmen Dissidents," Associated Press, reprinted in Taipei Times (Online), 26 May 09.

[45] "Dissident Yang Jianli Denied Entry to Hong Kong Again" [Yiyirenshi yang jianli zaibei jujue rujing xianggang], Voice of America (Online), 10 May 09; "Hong Kong Denied Democracy Movement Individual Yang Jianli's Entry" [Bengang ju minyun renshi yang jianli rujing], Ming Pao, reprinted in Yahoo! (Online), 9 May 09.

[46] Nora Boustany, "Hong Kong Bars Chinese Dissident," Washington Post (Online), 8 August 08.

[47] The advocates and lawmakers were also planning to take part in a public forum to discuss the Macau Special Administrative Region National Security Law. Macau officials reportedly cited internal security laws as the reason for denying the advocates and lawmakers entry into Macau. "Hong Kong Democrats Barred From Macau Ahead of Rally," Agence France-Presse (Online), 20 December 08.

Notes to Section II—Status of Women

[1] UN GAOR, Hum. Rts. Coun., 4th Sess., National Report Submitted in Accordance With Paragraph 15 (A) of the Annex to Human Rights Council Resolution 5/1, A/HRC/WG.6/4/CHN/1, 10 November 08, para. 63.

[2] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. III(2).

[3] PRC Law on the Protection of Women's Rights and Interests, enacted 3 April 92, effective 1 October 92, amended 28 August 05, art. 11; PRC Electoral Law of the National People's Congress and Local People's Congresses, enacted 1 July 79, amended 27 October 04, art. 6.

[4] Zhan Yan, "Feature: Women's Changing Status in China," Xinhua (Online), 7 March 09.

[5] CECC, 2008 Annual Report, 31 October 08, 116.

[6] "'Law on Women' Should Be Included in National Peoples Congress' Examination Plan of Enforcement of the Law" ["Funufa" ying lieru renda zhifa jiancha jihua], China Women's News, reprinted in Women's Watch-China (Online), 10 March 09; "National People's Congress for First Time Issues Rule on Proportion of Women Representatives" [Renda shouci dui funu daibiao bili zuochu guiding], Xinhua (Online), 9 March 07.

[7] PRC Compulsory Education Law, enacted 12 April 86, amended 29 June 06, amendment effective 1 September 06, arts. 2, 4.

[8] As of 2006, for example, 99.29 percent of girls and 99.25 percent of boys that were of school age were enrolled in primary education, according to a UN Development Programme study. United Nations Development Programme (Online), UNDP: China Human Development Report 2007/08, 17 November 08, 101.

[9] For example, primary school enrollment in China has reached gender parity, according to the United Nations Children's Fund. United Nations Children's Fund (Online), "Gender Equality," updated January 2009. According to a recent study conducted by gender specialists and the Women's Study Institute of China, women in China during the 2006 and 2007 school year constituted 47.2 percent of high school students, 48.91 percent of college students, and 44.5 percent of graduate students. "2006–2007: Report on China's Gender Equality and Women's Development" [2006–2007: zhongguo xingbie pingdeng yu funu fazhan baogao], China Women's News, reprinted in Women's Watch-China (Online), 1 March 09.

[10] UN Committee on the Elimination of Discrimination against Women, Consideration of Reports Submitted by State Parties Under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, Combined Fifth and Sixth Periodic Report of States Parties, China, CEDAW/C/CHN/5-6, 10 June 04, 33.

[11] For example, in the poorest fifth of the population, female and male illiteracy rates are 56 percent and 34 percent, respectively, while in the wealthiest fifth of the population, female and male illiteracy rates are 17 percent and 6 percent, respectively. United Nations Development Programme (Online), UNDP: China Human Development Report 2007/08, 17 November 08, 101.

[12] "Survey of Present Education for Poor Girls: Boys Study and Girls Feed Pigs" [Pinkun nutong jiaoyu xianzhuang diaocha: nanhai dushu nuhai wei zhu], China Youth Daily, reprinted in Xinhua (Online), 18 February 09.

[13] Ibid.

[14] Convention on the Elimination of All Forms of Discrimination against Women, adopted by UN General Assembly resolution 34/180 of 18 December 79, entry into force 3 September 81, art. 12.

[15] For example, as of 2008 the average life expectancy for women in China had risen to 72.25 years. "Chinese Women's Average Number of Years' Education Reaches 7.3 Years; Life Expectancy 72.25 Years" [Woguo funu pingjun shou jiaoyu nianxian da 7.3 nian pingjun yuqi shouming 72.25 sui], Xinhua (Online), 24 September 08.

[16] Anita Swarup, Institute of Development Studies (Online), "China: Better Healthcare for Poor Women," 19 August 08.

[17] World Health Organization (Online), "Suicide Rates per 100,000 by Country, Year and Sex (Table)," 2008.

[18] "Suicide an Important Cause of Death Among Chinese Rural Women; 60 Percent Driven by Impulse" [Zisha cheng zhongguo nongcun nuxing zhongyao siyin 60% shuyu yishi chongdong], Beijing Daily, reprinted in Xinhua (Online), 8 January 09. See also "Female Suicides 'Linked to Status,'" Radio Free Asia (Online), 12 January 09.

[19] "Research Shows: Suicide Has Become Major Cause of Death for Chinese Rural Women" [Yanjiu xianshi: zisha yicheng zhongguo nongcun nuxing zhongyao siyin], Radio Free Asia (Online), 9 January 09.

[20] Ibid.

[21] "Female Suicides 'Linked to Status,'" Radio Free Asia (Online), 12 January 09.

[22] For example, the maternity mortality rate at childbirth has decreased from 51 deaths per 100,000 childbirths in 2003 to 36.6 deaths per 100,000 childbirths in 2007. United Nations Children's Fund (Online), "Maternal Health," updated September 2008. According to a recent United Nations report, 7,000 Chinese women die in childbirth every year. This figure represents roughly 1.3 percent of the world's total maternity deaths at childbirth, but is relatively low compared to other parts of the world. "7,000 Women Die in Childbirth in China Every Year, Representing 1.3 Percent of the World Total" [Zhongguo meinian yue 7,000 ming funu zai fenmian zhong siwang zhan quanqiu 1.3%], China News Net, reprinted in Women's Watch-China (Online), 15 March 09.

[23] "China Launches Campaign To Break Sex Taboos," China Daily (Online), 15 February 09; "The Changing Face of HIV in China," 455 Nature 609 (October 2008).

[24] Human Rights in China (Online), "Implementation of the Convention on the Elimination of All Forms of Discrimination against Women in the People's Republic of China: A Parallel NGO Report by Human Rights in China," June 2006, 12–14.

[25] China did not have any sex education textbooks until early 2002. "China Targets Adolescent Health With Sex Education," Xinhua, reprinted in China Daily (Online), 14 July 03. Only 7 percent of women and approximately 8 percent of men seek immediate medical assistance when reproductive health issues arise. More than a third of them never ask for help. "China Launches Campaign To Break Sex Taboos," China Daily (Online), 15 February 09.

[26] See Mikhail Lipatov, Shuzhuo Li, and Marcus W. Feldman, "Economics, Cultural Transmission, and the Dynamics of the Sex Ratio at Birth in China," Proceedings of the National Academy of Social Sciences of the United States of America, 9 December 08, Vol. 105 (49):19171. According to this study, "The root of the [gender imbalance] problem lies in a 2,500-year-old culture of son preference." See also Chu Junhong, "Prenatal Sex Determination and Sex-Selective Abortion in Rural Central China," 27 Population and Development Review 2 (2001), 259; Joseph Chamie, "The Global Abortion Bind: A Woman's Right To Choose Gives Way to Sex-Selection Abortions and Dangerous Gender Imbalances," Yale Global (Online), 29 May 08.

[27] "Why Is Village Childbearing Changing Quietly? Tenth National Women's Conference Analyzes Village Childbearing" [Nongcun shengyuguan yuanhe qiaoran gaibian? Funu shida daibiao pouxi nongcun shengyuguan], Xinhua (Online), 30 October 08.

[28] UN Declaration on the Elimination of Violence Against Women, adopted by UN General Assembly resolution 48/104, 19 December 93, art. 2.

[29] UN Fourth World Conference on Women, Platform for Action, Women and Health, September 95, para. 124(c).
[30] Ibid., strategic objective D.2.
[31] The World Health Organization defines sexual violence as "any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or [acts] otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home or work." Etienne G. Krug, Linda L. Dahlberg, James A. Mercy, Anthony B. Zwi, and Rafael Lozano, ed., World Report on Violence and Health (Geneva: World Health Organization, 2002), 149.
[32] PRC Law on the Protection of Women's Rights and Interests, enacted 3 April 92, effective 1 October 92, amended 28 August 05, art. 2.
[33] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, arts. 236, 237.
[34] In June 2006, the Chinese Government reported that between 2001 and 2005 Chinese courts adjudicated 125,568 rape cases and 16,560 statutory rape cases (involving girls under the age of 14). The government reported these numbers in response to questions raised by the UN Committee on the Elimination of Discrimination against Women during its country review of the status of women in China. United Nations Division for the Advancement of Women (Online), "2006 Response to the List of Issues and Questions for Consideration of the Combined Fifth and Sixth Periodic Report of China," 8 June 06, 10.
[35] K.L. Chan, Sexual Violence Research Initiative (Online), "Sexual Violence Against Women & Children in China," August 2007, 5.
[36] Loretta Chao, "China Murder Case Sparks Women's Rights Uproar," Wall Street Journal (Online), 28 May 09; Alexa Olesen, "Chinese Praise Waitress Held for Stabbing Official," Associated Press, reprinted in Washington Post (Online), 22 May 09.
[37] Ibid.; Ng Tze-wei, "Support for Woman Held Over Killing of Official," South China Morning Post (Online), 19 May 09; "Statement on Deng Yujiao by the Center for Women's Law & Legal Services of Peking University" [Beijing daxue faxueyuan funu falu yanjiu yu fuwu zhongxin de shengming], Women's Watch-China (Online), 2 June 09.
[38] "Statement on Deng Yujiao by the Center for Women's Law & Legal Services of Peking University" [Beijing daxue faxueyuan funu falu yanjiu yu fuwu zhongxin de shengming], Women's Watch-China (Online), 2 June 09.
[39] Loretta Chao, "China Murder Case Sparks Women's Rights Uproar," Wall Street Journal (Online), 28 May 09.
[40] Ibid.
[41] K.L. Chan, Sexual Violence Research Initiative (Online), "Sexual Violence Against Women & Children in China," August 2007, 4, 6.
[42] "Pulling No Punches Against Domestic Abuse," China Daily (Online), 25 November 08. Of these victims, 94 percent are women, according to the report. The report also indicated that the number of domestic violence complaints rose from 20,000 in 2000 to 40,000 per year from 2005 to 2007.
[43] PRC Marriage Law, enacted 10 September 80, effective 1 January 81, amended 28 April 01, arts. 3, 32, 43, 45, 46(3).
[44] PRC Law on the Protection of Women's Rights and Interests, enacted 3 April 92, effective 1 October 92, amended 28 August 05, art. 46.
[45] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, arts. 234, 236, and 260. Domestic violence offenders are also punishable under Article 43 of the PRC Public Security Administration Punishment Law. PRC Public Security Administration Punishment Law, enacted 28 August 05, effective 1 March 06, art. 43.
[46] "Domestic Violence in China," People's Daily, reprinted and translated into English in All-China Women's Federation (Online), 10 October 08.
[47] "Anti-Domestic Violence Legislation Must Be Enacted Without a Second's Delay" [Fan jiating baoli dandu lifa keburonghuan], Shenzhen Lawyer's Net, reprinted in Women's Watch-China (Online), 16 May 08; Guo Jianmei and Li Ying, "Discussing Legal Protection for Domestic Violence Victims" [Lundui jiating baoli shouhaizhe de falu baohu], Women's Watch-China (Online), 27 November 08.
[48] Central Propaganda Department, All-China Women's Federation, Supreme People's Procuratorate, Ministry of Public Security, Ministry of Justice, Ministry of Civil Affairs, and Ministry of Health, Opinion on Preventing and Deterring Domestic Violence [Guanyu yufang he zhizhi jiating baoli de ruogan yijian], issued 31 July 08.
[49] Ibid., arts. 8, 11, 13. Among other measures, the opinion requires public security officers to respond to domestic violence complaints made by people who call "110," an emergency telephone hotline in China. The opinion also requires hospitals and healthcare workers to undergo domestic violence-related training programs to prevent and curb domestic violence. The All-China Women's Federation is also required to establish domestic violence hotlines.
[50] Institute of Applied Laws, Supreme People's Court, Guidance on Trials of Cases Involving Domestic Violence in Marriage" [Sheji jiating baoli hunyin anjian shenli zhinan], issued 3 March 08, arts. 27, 29. Among other stipulations, the guidance included the following four measures: (1) Advise courts to issue protection orders to "prohibit offenders from beating, threatening, harassing, or stalking victims, or having unwelcome contact with the victims and their children"; (2) if it is necessary and if the case meets certain qualifications, then offenders in some cases should temporarily move out of their residences; (3) if it is necessary, some perpetrators of domestic violence may also be required to receive psychological therapy; and (4) courts are authorized to issue "emergency orders" effective for 15 days and "long-term orders" effective between 3 and 6 months, or up to 12 months.

[51] Xu Wei, "'Family Business' Needs Someone To Look After as Well; Guidance for Trials Involving Anti-Domestic Violence Promoted as Regulations" ["Jiawushi" ye dei you ren guan fanjiabao shenli zhinan shangsheng wei guifan wenjian], Legal Daily (Online), 15 June 09; "Judiciary Intervention Into Family Violence; Wenzhou Issued the First Protection Order" [Sifa jieru ezhi jiating baoli wenzhou fachu shouzhang renshen baohuling], Legal Daily (Online), 29 June 09; Chongqing Municipal People's Government, "City Issues First Safety Protection Order" [Woshi fachu shoupi renshen baohuling], reprinted in Chongqing Archives (Online), 23 October 08.

[52] "Domestic Violence in China," People's Daily, reprinted and translated into English in All-China Women's Federation (Online), 10 October 08; "Combating Domestic Violence: China Issues First Ruling for a Personal Safety Protective Order" [Fanjiabao zhongguo fachu shouge renshen anquan baohu caiding], Legal Daily, reprinted in China Development Gateway (Online), 18 August 08.

[53] Pei Zhiyong and Yan Ke, "Legal Insight: New Anti-Domestic Violence Legal Mechanism" [Fayan: fan jiabao sifa xinjizhi], People's Daily (Online), 13 May 09.

[54] "Anti-Domestic Violence Law Bottlenecked, Deputy of National People's Congress Calls for Complete Legislation" [Fan jiating baoli zaoyu pingjing renda daibiao huyu wanshan lifa], China News Net, reprinted in Hexun (Online), 16 March 08.

[55] PRC Law on the Protection of Women's Rights and Interests, enacted 3 April 92, effective 1 October 92, amended 28 August 05, arts. 40, 58.

[56] "Chinese Women Appeal for Effective Anti-Harassment Legislation," Xinhua (Online), 30 October 08.

[57] CECC, 2008 Annual Report, 31 October 08, 115.

[58] "Law on Prevention of Sexual Harassment in the Workplace Submitted to the National People's Congress (Draft Proposal)" [Xiang quanguo renda tijiao "gongzuo changsuo xingsaorao fangzhifa" (jianyi gao) yi an], Maple Women's Psychological Counseling Center Beijing (Online), 17 February 09.

[59] PRC Law on the Protection of Women's Rights and Interests, enacted 3 April 92, effective 1 October 92, amended 28 August 05, arts. 22–27.

[60] PRC Labor Law, enacted 5 July 94, effective 1 January 95, arts. 12, 13, 59–63.

[61] PRC Employment Promotion Law, enacted 30 August 07, effective 1 January 09, art. 27.

[62] Referred to as the "sticky floor" phenomenon, gender inequality in wages, as part of companies' discriminatory compensation policies against female workers, tends to be much more pronounced in low-skilled jobs when most of those job holders are teenage migrant girls who fall victim to wage discrimination. "China's 'Sticky Floor,'" McKinsey Quarterly (Online), May 2009.

[63] The CASS report noted that while educational background attributed to the wage gap, gender discrimination was also a factor. "Migrant Women's Hope: Pay Discrimination To Disappear Soon" [Liudong funu de xiwang: baochou qishi zaori xiaoshi], China Women's News, reprinted in Women's Watch-China (Online), 12 March 09.

[64] "Graduates Employment Report: Male Graduates Salaries Higher Than Females" [Biyesheng jiuye baogao: nanxing biyesheng xinzi gaoyu nuxing], Worker's Daily, reprinted in Women's Watch-China (Online), 12 June 09. See also "China's 'Sticky Floor,'" McKinsey Quarterly (Online), May 2009.

[65] According to the article, 65 percent of female college graduates believe that gender discrimination is their greatest barrier to securing employment. Additionally, recruiters stated that they discuss ways to eliminate female job applicants after interviews, and employees from some human resources' departments stated that they rarely review job applications submitted by women at job fairs. "Shandong Jinan News: Women Encounter 'Hidden' Discrimination in Employment" [Shandong jinan jianwen: nuxing jiuye zaoyu "yinxing" qishi], Dazhong Daily, reprinted in Xinhua (Online), 12 March 09.

[66] Liang Jiangtao, "Why Do 'Appearance Thresholds' Frequently Appear at Employment Recruiting Fairs for Female Students?" [Nusheng zhaopinhui heyi pinxian "xiangmao menkan?"], Sichuan News Net (Online), 8 March 09.

[67] "Liu Ge: Recruitment Criteria Include Symmetrical Breasts for Female Public Servants, an Insult to Women" [Liu ge: nu gongwuyuan luyong yaoqiu rufang duicheng wuru nuxing], New Century Weekly, reprinted in Sina.com (Online), 30 June 09.

[68] "National People's Congress Deputy and University Professor Interview on Anti-Employment Discrimination (Transcript)" [Renda daibiao daxue jiaoshou fandui jiuye qishi fangtan (shilu)], People's Daily, reprinted in Sohu (Online), 3 March 09.

[69] "China's Compulsory Retirement Age for Males and Females Challenged for Violating Constitution" [Woguo nannu tuixiu nianling guiding beitiqing weixian shencha], China Law Education (Online), 16 March 06.

[70] Ibid.

[71] Xie Chuanjiao, "Retirement Age To Rise for Women," China Daily (Online), 4 December 08.

[72] The increase would take place sometime in 2009. "Beijing To Solicit Opinions on the Draft Measures To Implement the Law on the Protection of Women's Rights and Interests" [Beijing shishi funu quanyi baozhangfa xiuding cao'an zhengqiu yijian], Xinhua (Online), 5 May 09.

[73] "Beijing Solicitation of Opinions on the Draft Measures To Implement the Law on the Protection of Women's Rights and Interests" [Beijing shishi funu quanyi baozhangfa xiuding cao'an zhengqiu yijian], Xinhua (Online), 5 May 09, art. 26.

[74] "Beijing Receives 525 Opinions Regarding Draft Measures To Implement the Law on the Protection of Women's Rights and Interests" [Beijing shi shishi funu quanyi baozhangfa banfa zaoan shoudao 525 tiao yijian], Beijing Daily, reprinted in Beijing Government (Online), 13 May 09.

[75] "Hainan Requests All Courts To Establish a Panel of Judges To Protect Women's Rights" [Hainan shuaixian yaoqiu geji fayuan sheli funu weiquan heyiting], China News Net, reprinted in Women's Watch-China (Online), 17 March 09.

Notes to Section II—Human Trafficking

[1] UN Protocol To Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (TIP Protocol), adopted 15 November 00, entered into force 25 December 03, art. 3(a). The Chinese Government has been considering the signing and ratification of the TIP Protocol for the past few years. China's laws and regulations already include more than 95 percent of the protocol's contents. CECC, 2008 Annual Report, 31 October 08, 120–121. See also Wang Zhuoqiong, "China Set To Ratify UN Trafficking Protocol," China Daily (Online), 24 October 08.

[2] CECC, 2008 Annual Report, 31 October 08, 118. As documented and defined internationally, major forms of human trafficking include forced labor, bonded labor, involuntary domestic servitude, child soldiers, forced prostitution, children exploited for commercial sex, child sex tourism, and debt bondage and involuntary servitude among migrant laborers. Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report 2008, Major Forms of Trafficking in Persons, 4 June 08, 19–28.

[3] CECC, 2008 Annual Report, 31 October 08, 118.

[4] Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report—2009, China, 16 June 09; Robert Booth, "Revealed: 77 Trafficked Chinese Children Lost by Home," Guardian (Online), 5 May 09; "Trafficked Women Rescued in Raids," Press Association, reprinted in UTV News (Online), 28 May 09; "Workers Stranded in Crisis-Hit Romania," Agence France-Presse (Online), 2 March 09; Anas Aremeyaw Anas, "Chinese Sex Mafia Busted," Crusading Guide, reprinted in Modern Ghana (Online), 19 February 09; Isabelle Ligner, "Dutch Find More Human Trafficking Victims," United Press International (Online), 6 February 09; "Chinese Women Forced Into Paris Prostitution: Aid Group," Agence France-Presse (Online), 5 February 09; Cathy Scott-Clark and Adrian Levy, "It Is Down Your Street and in Your Lane," Guardian (Online), 11 October 08.

[5] CECC, 2008 Annual Report, 31 October 08, 121. Countries where women and children are trafficked into China include North Korea, Vietnam, and Burma. See, e.g., Committee for Human Rights in North Korea, Lives for Sale: Personal Accounts of Women Fleeing North Korea to China, March 2009; "North Korean Women Sold in China," Associated Press, reprinted in Radio Free Asia (Online), 29 April 09; "North Korean Women Sold Into Marriage in China," Dong-A Ilbo (Online), 28 March 09; See also "Kidnapping Hmong Women in Vietnam," Economist (Online), 13 March 09; "Burma: Police Reportedly Arrest Trafficker Selling Women to Chinese Men," Rangoon 7Day News Journal, translated by Open Source Center (Online), 12 February 09; "Two Vietnamese Teenagers Trafficked for Prostitution in Yunnan; Chinese and Vietnamese Police Rescued Together" [Liang yuenan shaonu beiguai yunnan maiyin zhongyue jingfang lianshou jiejiu], Yunnan Information News, reprinted in Sohu.com (Online), 8 February 09; "Trafficked Vietnamese Women Rescued in China," Reuters (Online), 27 November 08; Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report—2009, China, 16 June 09.

[6] CECC, 2008 Annual Report, 31 October 08, 121.

[7] CECC Staff Interview. "Child Labor Exposed in Shanghai and Wuhan, Following Spring Scandal in Guangdong," CECC China Human Rights and Rule of Law Update, November 2008, 2. The exact scale of labor trafficking in China remains unknown. "Human Trafficking for Labor Exploitation in China," Women's Watch—China (Online), 2 July 07.

[8] CECC, 2007 Annual Report, 10 October 07, 122.

[9] Clare Dwyer Hogg, "Has Anyone Seen Our Child?" Guardian (Online), 23 September 07.

[10] Andrew Jacobs, "Chinese Hunger for Sons Fuels Boys' Abductions," New York Times (Online), 5 April 09; Clare Dwyer Hogg, "Has Anyone Seen Our Child?" Guardian (Online), 23 September 07.

[11] Ibid.; "Child Abductions Plague China," Al Jazeera (Online), 6 October 08.

[12] Andrew Jacobs, "Chinese Hunger for Sons Fuels Boys' Abductions," New York Times (Online), 5 April 09; "Child Abductions Plague China," Al Jazeera (Online), 6 October 08. The New York Times also reported that local officials have encouraged parents to buy an abducted child in cases where the parents did not need to register the purchased infant as a new birth at the local family planning bureau.

[13] "A Beijing Petitioning Adventure of 40 Parents Who Lost Children," China Digital Times (Online), 2 October 08. The 40 parents of abducted children came from 10 provinces.

[14] "Child Labor Alleged at Factory," Radio Free Asia (Online), 12 May 09; Jüme, "Human Trafficking or Arranging for Work?" [Adem bédikchilikimu yaki ishqa orunlashturushmu?], Radio Free Asia (Online), 20 March 09; Ariana Eunjung Cha, "China Unrest Tied to Labor Program," Washington Post (Online), 15 July 09 .

[15] "Pretty Girl Continuously Trafficked, Imprisoned 15 Years and Loses Her Mind" [Piaoliang nuzi lianzao guaimai beiqiu 15 nian cheng chidai], Inner Mongolia Morning Post, reprinted in Xinhua (Online), 22 March 09; "Woman Trafficked for 15 Years and Mentally Ill; Cao Xiaoqin Walked Out of Cave Yesterday" [Nuzi bei guaimai 15 nian fafengxu cao xiaoqin zuori zouchu yaodong], Inner Mongolia Morning Post, reprinted in Xinhua (Online), 22 March 09; "Sichuan Woman Trafficked to Inner Mongolia Became Mentally Ill and Enslaved in a Cave for 15 Years" [Sichuan nuzi bei guaizhi neimeng jingshen shichang qishen yaodong 15 nian], Inner Mongolia Morning Post, reprinted in Sina.com (Online), 19 March 09.

[16] Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report—2009, China, 16 June 09.

[17] For example, in 2008, Xinhua reported that police found 746 children in Xinjiang Uyghur Autonomous Region who were forced to pickpocket or shoplift. "Chinese Police Rescue 746 Forced Child Thieves," Xinhua (Online), 5 February 09.

[18] Andrew Jacobs, "Chinese Hunger for Sons Fuels Boys' Abductions," New York Times (Online), 5 April 09.

[19] He Huifeng, "1,000 Child Slaves in Brick Factories," South China Morning Post (Online), 14 June 07.

[20] "Children Forced Into Pickpocket Gang Return Home," Xinhua, reprinted in China Internet Information Center (Online), 18 June 09. The trafficked children who were from the Xinjiang Uyghur Autonomous Region reportedly were tricked into moving to Guangzhou with false promises of jobs by a 22-member organized crime group.

[21] See He Huifeng, "Protests by Grieving Parents Grow Over Child Trafficking," South China Morning Post (Online), 28 April 09; Zhan Lisheng, "City Fights Rumors of Child Abductions," China Daily (Online), 28 April 09.

[22] Wang Jingqiong, "Girls Taken From Parents and Sold," China Daily (Online), 3 July 09; "Orphanage Investigated, Officials Punished Over Baby Adoption Scandal in SW China," Xinhua (Online), 3 July 09; Henry Sanderson, "China Punishes Officials After Babies Taken," Associated Press (Online), 4 July 09.

[23] For information on investigation and prosecution efforts, see CECC, 2008 Annual Report, 31 October 08, 122–123.

[24] "Abductor of Nine Boys Executed by Lethal Injection in Central China," Xinhua (Online), 27 March 09; Lu Guowei and Cao Meng, "Criminal of Henan Especially Large Child Trafficking Case Executed Today" [Henan teda guaimai ertong an zhuan jinri fufa], China Court Network (Online), 26 March 09 .

[25] Liao Bo, "3 Main Suspects Sentenced to Death in the First Trial of Guizhou's Largest Trafficking of Women Case" [Guizhou zuida guaimai funu an yishen sanzhufan beipan sixingsihuan], Guizhou Metropolitan Daily, reprinted in QQ News (Online), 17 December 08.

[26] Public security officials launched a nationwide campaign focused on the problem of forced labor and involuntary servitude following incidents of trafficking for forced labor in brick kilns in Shanxi and Henan provinces in 2007. CECC, 2008 Annual Report, 31 October 08, 122.

[27] Christopher Bodeen, "10 Arrested in East China Over Brick Kiln Slavery," Associated Press, reprinted in Washington Post (Online), 22 May 09.

[28] Supreme People's Court Circular on Completing Trial Work During the Earthquake Disaster Relief Period To Earnestly Safeguard Social Stability in the Disaster Area [Zui gao renmin fayuan guanyu yifa zuohao hao kangzhen jiuzai qijian shenpan gongzuo qieshi weihu zaiqu shehui wending de tongzhi], issued 26 May 08, effective 26 May 08. Numerous reports of infant abductions surfaced in the wake of the May 2008 Sichuan Earthquake. "Infant Trafficking From the Earthquake Zone and Other Cases Reflect Anti-Trafficking Challenges," Congressional-Executive Commission on China (Online), 15 August 08.

[29] "Infant Trafficking From the Earthquake Zone and Other Cases Reflect Anti-Trafficking Challenges," Congressional-Executive Commission on China (Online), 15 August 08; "Traffickers Stealing Babies From Under the Rubble Caused by the Quake," Asia Times (Online), 28 May 08.

[30] "Why Has Crime of Child Abductions Continued Ceaselessly" [Guaimai ertong fanzui weihe luda bujue], Xinhua (Online), 24 March 09.

[31] "Ministry of Public Security Special Project To Counter Human Trafficking" [Gonganbu zhuanxiang xingdong daji guaimai renkou], Caijing (Online), 10 April 09.

[32] "China Issues Evaluation Standards for Anti-Trafficking Work" [Zhongguo xiafa fandui guaimai funu ertong gongzuo jiancha kaohe biaozhun], Xinhua (Online), 9 March 09.

[33] "China To Implement Registration and Management System for Floating Children Under Age of 16" [Zhongguo jiang shixing 16 sui yixia liudong ertong dengji guanli zhi], China Philanthropy Times (Online), 9 June 09.

[34] Prevent Trafficking China (Online), "About Us," accessed 9 April 09.

[35] UN Interagency Project on Human Trafficking (Online), China's Brief Report on Achievements During the First Year of Phase III of UNIAP Project, 7 November 08, 2.

[36] "China and Vietnam Join To Seriously Combat Transnational Trafficking in Women and Children" [Zhongyue lianhe yanli daji kuaguo guaimai funu ertong fanzui], Xinhua (Online), 6 January 09.

[37] PRC Criminal Law, effective 1 October 97, amended 28 February 08, art. 240.

[38] UN Protocol To Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (TIP Protocol), adopted 15 November 00, entered into force 25 December 03, art. 3(a). Article 3(a) of the TIP Protocol states: "'Trafficking in persons' shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs."

[39] Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report—2009, China, 16 June 09.

[40] Ibid. The number of cases also included cases of human smuggling.

[41] CECC, 2008 Annual Report, 31 October 08, 122.

[42] CECC, 2007 Annual Report, 10 October 07, 121; CECC, 2008 Annual Report, 31 October 08, 122. Some of these cases may not necessarily constitute human trafficking as defined by international standards. For example, the U.S. Department of State's 2005 Trafficking in Persons Report states: "illegally selling a child for adoption would not constitute trafficking where the child itself is not to be exploited. Baby selling generally results in a situation that is non-exploitative with respect to the child. Trafficking, on the other hand, implies exploitation of the victims. If an adopted child is subjected to coerced labor or sexual exploitation, then it constitutes a case of human trafficking." Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report 2005, 3 June 05, 21.

[43] CECC, 2007 Annual Report, 10 October 07, 120.

[44] CECC, 2008 Annual Report, 31 October 08, 118. The U.S. Department of State's 2009 Trafficking in Persons Report stated, "There continued to be no dedicated government assistance

programs for victims of trafficking. China has an inadequate number of shelters to assist trafficking victims, and regularly returns trafficking victims to their homes without access to counseling or psychological care. Most of the existing shelters are temporary, not exclusive to trafficking victims, and provide little or no care to repatriated victims." Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report—2009, China, 16 June 09.

[45] CECC, 2008 Annual Report, 31 October 08, 123; U.S. Department of State, Trafficking in Persons Interim Assessment (May–November 2008): China, 27 January 09.

[46] CECC, 2008 Annual Report, 31 October 08, 122; Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report—2009, China, 16 June 09.

[47] For example, the U.S. State Department reported that trafficking victims, including some trafficked from North Korea, have been treated as criminals and faced punishment without government protection. The report also stated that trafficked North Koreans, whom China considers economic migrants, have also faced systematic deportation. Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report—2008, China, 4 June 08; CECC, 2008 Annual Report, 31 October 08, 122. For information concerning distinctions between human smuggling and trafficking, see U.S. Department of State (Online), "Distinctions Between Human Smuggling and Human Trafficking," 1 April 06.

[48] The report also stated that the "Chinese Government does not fully comply with the minimum standards for the elimination of trafficking; however it is making significant efforts to do so." Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report—2009, China, 16 June 09.

[49] State Council, China National Plan of Action on Combating Trafficking in Women and Children (2008–2012), issued 13 December 07, effective 1 January 08. In February 2009, the Ministry of Public Security, as the coordinator of the national interagency anti-trafficking taskforce, issued opinions on fully implementing the National Plan of Action. Opinions on Fully Implementing China's National Plan of Action on Combating Trafficking in Women and Children (2008–2012) [Guanyu gongan jiguan guanche shishi zhongguo fandui guaimai funu ertong xingdong jihua 2008–2012 nian deyijian], Ministry of Public Security, issued 12 February 09.

[50] Implementation Rules for China's National Plan of Action on Combating Trafficking in Women and Children (2008–2012) [Zhongguo fandui guaimai funu ertong xingdong jihua 2008–2012 nian shishi xize], issued March 2009.

[51] Yunnan Province Implementing Opinion on the National Plan of Action on Combating Trafficking in Women and Children (2008–2012) [Yunnan sheng guanche zhongguo fandui guaimai funu ertong xingdong jihua (2008–2012 nian) shishi yijian], issued 21 November 08; Tibet Autonomous Region Implementing Opinion on the National Plan of Action on Combating Trafficking in Women and Children (2008–2012) [Guanche luoshi zhongguo fandui guaimai funu ertong jihua (2008–2012 nian) shishi yijian], issued 3 February 09; Guizhou Province Implementation Plan on the National Plan of Action on Combating Trafficking in Women and Children (2008–2012) [Guizhou sheng zhongguo fandui guaimai funu ertong jihua (2008–2012 nian) shishi fangan], issued and effective 4 May 08; Hainan Province Working Plan on Combating Trafficking of Women and Children [Hainan sheng fandui guaimai funu ertong gongzuo jihua], issued 6 June 08, effective 1 January 08; Fujian Province Implementation Plan on the National Plan of Action on Combating Trafficking in Women and Children (2008–2012) [Fujian sheng fandui guaimai funu ertong xingdong shishi jihua (2008–2012 nian)], issued 11 June 08.

[52] CECC staff review of Guizhou, Hainan, Fujian, and Yunnan provinces and the Tibet Autonomous Region implementing measures. See, e.g., Yunnan Province Implementing Opinion on the National Plan of Action on Combating Trafficking in Women and Children (2008–2012) [Yunnan sheng guanche zhongguo fandui guaimai funu ertong xingdong jihua (2008–2012 nian) shishi yijian], issued 21 November 08; Tibet Autonomous Region Implementing Opinion on the National Plan of Action on Combating Trafficking in Women and Children (2008–2012) [Guanche luoshi zhongguo fandui guaimai funu ertong jihua (2008–2012 nian) shishi yijian], issued 3 February 09.

[53] The implementation plans also call for the strengthening of social welfare and assistance to rescued women and children, including occupational training and employment assistance. CECC staff review of Guizhou, Hainan, Fujian, and Yunnan provinces and the Tibet Autonomous Region implementing measures. For an example, see Guizhou Province Implementation Plan on the National Plan of Action on Combating Trafficking in Women and Children (2008–2012) [Guizhou sheng zhongguo fandui guaimai funu ertong jihua (2008–2012 nian) shishi fangan], issued and effective 4 May 08, secs. 4(6), 6(10).

[54] CECC staff review of Guizhou, Hainan, Fujian, and Yunnan provinces and the Tibet Autonomous Region implementing measures. For an example, see Guizhou Province Implementation Plan on the National Plan of Action on Combating Trafficking in Women and Children (2008–2012) [Guizhou sheng zhongguo fandui guaimai funu ertong jihua (2008–2012 nian) shishi fangan], issued and effective 4 May 08, secs. 1(3)(2), 4(9), 5(4).

[55] This measure is subject to the approval of the relevant department(s). For those rescued women who are allowed to stay in Yunnan, the Yunnan Provincial Population and Family Planning Commission would regard them as "permanent residents" instead of as migrants or members of the population who do not have a local household registration (*hukou*). See Yunnan Province Implementing Opinion on the National Plan of Action on Combating Trafficking in Women and Children (2008–2012) [Yunnan sheng guanche zhongguo fandui guaimai funu ertong xingdong jihua (2008–2012 nian) shishi yijian], issued 21 November 08, sec. 3(4)(2).

[56] This Protocol states that "each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases." It is unclear how the new policy will be implemented. UN Protocol To Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, adopted 15 November 00, entered into force 25 December 03, art. 7.

Notes to Section II—North Korean Refugees in China

[1] The 1951 Convention and its Protocol mandate that "[n]o Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." Convention Relating to the Status of Refugees, 28 July 51 by the UN Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429(V) of 14 December 50, art. 33. China acceded to the Convention on September 24, 1982.

[2] Stephan Haggard, Marcus Noland, and Erik Weeks, "North Korea: The Emergence of Pre-Famine Conditions," Vox (Online), 7 June 08.

[3] The UN Special Rapporteur on Human Rights in North Korea, "Question of the Violation of Human Rights and Fundamental Freedom in Any Part of the World: Situation of Human Rights in the Democratic People's Republic of Korea," 10 January 05, 13; Joel R. Charny, Acts of Betrayal: The Challenge of Protecting North Koreans in China (Washington, DC: Refugees International, 2005).

[4] ChinaAid (Online), "Christian Sentenced to 10 Years in Prison for Aiding North Korean Refugees," 1 September 09.

[5] "11 N. Korean Refugees Face Repatriation," Korea Times (Online), 22 November 08.

[6] "Chinese Authorities Arrest North Korean Refugees, Forced Repatriation Continues" [Jung guk dang guk, talbukja chepo. Gangje buksong yeojeonhi gyesok], Voice of America, Korean Language Service (Online), 3 December 08.

[7] Good Friends (Online), North Korea Today, No. 261, 27 January 09.

[8] 1,319 refugees participated in the survey. Yoonok Chang, Stephan Haggard, and Marcus Noland, Peterson Institute for International Economics, Working Paper, Migration Experiences of North Korean Refugees: Survey Evidence From China, March 2008, 2, 9.

[9] "North Korea Executes 15 Attempting Escape, China Arrests 40 Refugees," CECC China Human Rights and Rule of Law Update, June 2008, 3; International Crisis Group (Online), "Perilous Journeys: The Plight of North Koreans in China and Beyond," 26 October 06; U.S. Commission on International Religious Freedom, "A Prison Without Bars: Refugee and Defector Testimonies of Severe Violations of Freedom of Religion or Belief in North Korea," March 2008.

[10] Good Friends (Online), North Korea Today, No. 266, 4 March 09.

[11] Ibid.

[12] Ibid.

[13] Good Friends (Online), North Korea Today, No. 271, 6 April 09.

[14] CECC, 2008 Annual Report, 31 October 08, 125; Bureau of Democracy, Human Rights and Labor, U.S. Department of State, Country Report on Human Rights Practices—2007, China (includes Tibet, Hong Kong, and Macau), 11 March 08, 21; U.S. Commission on International Religious Freedom, "A Prison Without Bars: Refugee and Defector Testimonies of Severe Violations of Freedom of Religion or Belief in North Korea," March 2008, preface.

[15] U.S. Commission on International Religious Freedom, "A Prison Without Bars: Refugee and Defector Testimonies of Severe Violations of Freedom of Religion or Belief in North Korea," March 2008, preface, 4–5.

[16] Laura Ling and Euna Lee, "Hostages of the Hermit Kingdom," Los Angeles Times (Online), 1 September 09; Choe Sang-hun, "Reporters Tell of North Korea Arrest," New York Times (Online), 3 September 09.

[17] U.S. Commission on International Religious Freedom, "A Prison Without Bars: Refugee and Defector Testimonies of Severe Violations of Freedom of Religion or Belief in North Korea," March 2008, preface, 4–5.

[18] Ibid., 11, 21–22, 28.

[19] Tom O'Neill, "Escape From North Korea," National Geographic Magazine (Online), 1 February 09.

[20] Kwang-Tae Kim, "Activists: NKorean Executed for Distributing Bible," Associated Press (Online), 24 July 09.

[21] Demetri Sevastopulo, "China Increases Troops on North Korea Border," Financial Times (Online), 13 November 08.

[22] Ibid.

[23] Michael Sheridan, "Refugees Shot Fleeing North Korea," Times of London (Online), 29 June 08.

[24] "UN Envoy Urges China Not To Send Back N. Korea Refugees," Agence France-Presse (Online), 29 October 08.

[25] Tom O'Neill, "Escape From North Korea," National Geographic Magazine (Online), 1 February 09. In the lead-up to the 2008 Beijing Summer Olympic Games, Chinese public security officers reportedly conducted such inspections on a daily basis. See Life Funds for North Korean Refugees (Online), "North Korea Defectors Report on Current Border Situation," 19 June 08; "North Korean Defectors: China Urged To Provide Shelter to Those in Plight," Korea Times (Online), 26 May 08.

[26] The Rising Stakes of Refugee Issues in China, Staff Roundtable of the Congressional-Executive Commission on China, 1 May 09, Testimony of Joel Charny, Vice President for Policy, Refugees International, 4.

[27] Malcolm Moore, "Tensions Grow Along North Korean Border With China," Telegraph (Online), 13 November 08.

[28] Good Friends (Online), North Korea Today, No. 261, 27 January 09; Good Friends (Online), North Korea Today, No. 259, 12 January 09.

[29] Good Friends (Online), North Korea Today, No. 259, 12 January 09.

[30] Good Friends (Online), North Korea Today, No. 261, 27 January 09.

[31] Good Friends (Online), North Korea Today, No. 266, 4 March 09.

[32] Good Friends (Online), North Korea Today, No. 267, 8 March 09.

[33] Ibid.

[34] Ibid.
[35] Good Friends (Online), North Korea Today, No. 283, 27 June 09; "'150-Day Battle': N. Korea Succession Drama?" Associated Press, reprinted on MSNBC (Online), 27 May 09.
[36] Good Friends (Online), North Korea Today, No. 283, 27 June 09.
[37] Good Friends (Online), North Korea Today, No. 288, 1 August 09.
[38] Tom O'Neill, "Escape From North Korea," National Geographic Magazine (Online), 1 February 09.
[39] Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report, 4 June 09, 227; Committee for Human Rights in North Korea, Lives for Sale: Personal Accounts of Women Fleeing North Korea to China (Washington, DC: 2009), 50.
[40] Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report, 4 June 09, 227.
[41] Ibid.; Tom O'Neill, "Escape From North Korea," National Geographic Magazine (Online), 1 February 09.
[42] Committee for Human Rights in North Korea, Lives for Sale: Personal Accounts of Women Fleeing North Korea to China (Washington, DC: 2009), 51; Blaine Harden, "N. Korean Women Who Flee to China Suffer in Stateless Limbo," Washington Post (Online), 10 June 09.
[43] Human Rights Watch (Online), "Denied Status, Denied Education: Children of North Korean Women in China," April 2008.
[44] Life Funds for North Korean Refugees (Online), "Shadow Children Denied National ID," 6 July 09.
[45] Ibid.
[46] PRC Nationality Law, effective 10 September 80, art. 4.
[47] PRC Compulsory Education Law, enacted 12 April 86, art. 5.
[48] Ibid.; Convention Relating to the Status of Refugees, 189 U.N.T.S. 150, effective 22 April 54, art. 22; PRC Nationality Law, effective 10 September 80, art. 4.
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[31] State Council Circular Regarding the Printing and Distribution of the 2009–2011 Healthcare Reform Implementation Plan [Guowuyuan guanyu yinfa yiyao weisheng tizhi gaige jinqi zhongdian shishi fangan (2009–2011 nian) de tongzhi], issued 18 March 09, art. 21.

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[66] "[S]ince 2003, the government has covered the cost of medicine and hospitalization for patients with serious mental illness in the countryside. As of last year, 70,000 such patients received medication free of charge, and 6,000 patients were hospitalized at no cost to families, the ministry said." Nicholas Zamiska, "Caged in China: Parents Grapple With Mentally Ill," Wall Street Journal (Online), 16 January 08.

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[70] Taylor Clark, "Plight of the Little Emperors," Psychology Today (Online), 1 July 08; "Mental Health Cases Sweep China," Radio Free Asia (Online), 11 March 09. The RFA report states, "Sun Ya, who runs a health care blog for Xinlang, a popular Chinese news portal, said the problem was linked to China's draconian family-planning policies. 'Nowadays, most kids are only sons or daughters of their parents . . . This policy, which was conceived in response to massive population growth, has too many side-effects and is bound to cause some problems. . . . They are really missing out on something if they don't have people to communicate with, to share feelings with, to study with. From the parents' point of view, there is an even greater sense of pressure amid massive social change. This is bound to have an effect on the children. . . . On top of that, you have the fact that mental health issues aren't really taken that seriously in China, nor does anyone try to solve these problems, which just continue to mount up.'"

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[114] David Matas and David Kilgour, Bloody Harvest: Revised Report Into Allegations of Organ Harvesting of Falun Gong Practitioners in China, 31 January 07, Appendix 14.

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Notes to Section II—Climate Change and Environment

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[119] Chinese Human Rights Defenders (Online), "China Human Rights Briefing," May 4–10, 2009.
[120] Chinese Human Rights Defenders (Online), "Environmentalist and Daughter Sent to Re-education Through Labor Camps," 17 July 09.
[121] Chinese Human Rights Defenders (Online), "Environmental Activist Sun Xiaodi and Daughter Detained for Providing State Secrets Overseas," 25 June 09.
[122] "Anti-Nuclear Activist Sun Xiaodi Detained for 'Revealing Secret,' Wife and Daughter Implicated" [Fan he renshi sun xiaodi she "luomi" beigou funu shou zhulian], Radio Free Asia (Online), 18 June 09.
[123] Wang Canfa, Lectures on Environmental Law [Huanjing faxue jiaocheng], (Beijing: China University of Political Science and Law Press, 1997), 159–160; PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 20–21; PRC General Principles of the Civil Law, enacted 12 April 86, effective 1 January 87, art. 128–129.
[124] Wang Canfa, Lectures on Environmental Law [Huanjing faxue jiaocheng], (Beijing: China University of Political Science and Law Press, 1997), 159–160.
[125] Ibid., 160.
[126] Choi Chi-Yuk and Shi Jiangtao, "Journalists Held for Investigating Metal Leaks Case," South China Morning Post (Online), 6 August 09; He Huifeng, "Hunan's Village of the Damned," South China Morning Post (Online), 2 August 09.
[127] He Huifeng, "Hunan's Village of the Damned," South China Morning Post (Online), 2 August 09; Hu Huifeng, "Hunan Villagers, Hit by Deadly Seepage, Vow To Protest Again," South China Morning Post (Online), 1 August 09; Shi Jiangtao, "Poisoned Villagers Vow To Fight On," South China Morning Post (Online), 4 August 09.

[128] He Huifeng, "Hunan's Village of the Damned," South China Morning Post (Online), 2 August 09; Shi Jiangtao, "Poisoned Villagers Vow To Fight On," South China Morning Post (Online), 4 August 09; Shi Jiangtao, "Villagers Call Off Toxic Leak Protest," South China Morning Post (Online), 5 August 09; Choi Chi-yuk and Shi Jiangtao, "Officials 'Turned Blind Eye' to Death Factory," South China Morning Post (Online), 5 August 09.

[129] Shi Jiangtao, "Poisoned Villagers Vow To Fight On," South China Morning Post (Online), 4 August 09; Choi Chi-yuk and Shi Jiangtao, "Officials 'Turned Blind Eye' to Death Factory," South China Morning Post (Online), 5 August 09.

[130] Choi Chi-Yuk and Shi Jiangtao, "Journalists Held for Investigating Metal Leaks Case," South China Morning Post (Online), 6 August 09; "Liuyang Villagers Poisoned by Cadmium and Indium Demand Physicals but Are Denied, Lives and the Environment Are Sacrificed at the Back Door of the World's Factory" [Liuyang ge yin wuran cunmin qiu tijian zaoju shijie gongchang houmen renming, huanjing tong xisheng], Radio Free Asia (Online), 6 August 09.

[131] "Hubei Villagers Suffer Retaliation for Reporting on Illegal Dump Site" [Hubei cunmin yi jubao feifa lajichang zao baofu], Radio Free Asia (Online), 2 April 09.

[132] Yingshan County People's Government Office (Online), "A Clear Explanation of Some Problems Related to the Management of the Yingshan County Waste Treatment Site" [Guanyu yingshanxian chengchu laji chulichang youguan wenti de chengqing shuoming], 19 May 09; "Hubei Environmental Rights Defenders Ma Dajin and Wan Baiqing's Prison Sentences Amended to Probation" [Hubei huanbao weiquan daibiao ma dajin wan baiqing beigai pan huanxing], Radio Free Asia (Online), 27 May 09.

[133] "Hubei Environmental Rights Defenders Ma Dajin and Wan Baiqing's Prison Sentences Amended to Probation" [Hubei huanbao weiquan daibiao ma dajin wan baiqing beigai pan huanxing], Radio Free Asia (Online), 27 May 09.

[134] "Hubei Villagers Suffer Retaliation for Reporting on Illegal Dump Site" [Hubei cunmin yi jubao feifa lajichang zao baofu], Radio Free Asia (Online), 3 April 09.

[135] "Hubei Environmental Rights Defenders Ma Dajin and Wan Baiqing's Prison Sentences Amended to Probation" [Hubei huanbao weiquan daibiao ma dajin wan baiqing beigai pan huanxing], Radio Free Asia (Online), 27 May 09.

[136] Joan Hu, Greenlaw (Online), "Mixed Chinese Reactions Towards Approved PX Plant in Zhangzhou," 19 January 09; Liu Jianqiang, Chinadialogue (Online), "Planning Failure in Xiamen," 12 December 07; Zhu Hongjun and Su Yongtong, "The People and Wisdom Changed Xiamen: After Six Months, the Game With Multiple Players Move Towards Multiple Winners," Southern Weekend, 19 December 07, reprinted and translated by EastSouthWestNorth Blog (Online), 21 December 07; Edward Cody, "Thousands Clash With Police in S. China; Rumors of Chemical Factory Construction Spark Four Days of Demonstrations," Washington Post (Online), 4 March 08.

[137] Edward Cody, "Thousands Clash With Police in S. China; Rumors of Chemical Factory Construction Spark Four Days of Demonstrations," Washington Post (Online), 4 March 08; Joey Liu, "Chemical Plant Plan Enrages Islanders," South China Morning Post, 3 March 08 (Open Source Center, 3 March 08).

[138] Edward Cody, "Thousands Clash With Police in S. China; Rumors of Chemical Factory Construction Spark Four Days of Demonstrations," Washington Post (Online), 4 March 08.

[139] Chinese Human Rights Defenders (Online), "Thousands of Residents in Hunan Province, Liuyang City March To Protest Pollution, Two People Are Detained for Investigation by Police" [Hunan liuyang shuqian ren shangjie kangyi wuran 2 ren bei jingfang daizou diaocha], 1 August 09.

Notes to Section III—Civil Society

[1] For articles that suggest a link between these recent moves and the 60th anniversary, see, e.g., Simon Montlake, "China Snares NGOs With Foreign Funding," Christian Science Monitor (Online), 4 August 09; Emma Graham-Harrison and Ben Blanchard, "Leading China Rights Lawyer Detained," Reuters (Online), 30 July 09; Tini Tran, "Brother: Chinese Activist Held for Tax Evasion," Associated Press (Online), 4 August 09; Kathrin Hille, "Chinese Authorities Detain Civil Rights Activist," Financial Times (Online), 30 July 09; Human Rights in China (Online), "Law Research Center Is Shut Down as Authorities Tighten Control on Civil Society Groups," 17 July 09. The Commission noted in 2007 that under President Hu Jintao the Chinese Government strengthened policies that restrict the growth of an independent civil society in an effort to guard against perceived challenges to state authority and sources of social unrest. CECC, 2007 Annual Report, 10 October 07, 141.

[2] See, e.g., Rebecca MacKinnon, "Dark Days for China's Liberals," RConversation (Online), 7 August 09; Bill Schiller, "China Tightens Reins on Dissent," Toronto Star (Online), 9 August 08; Qian Gang, "Chinese NGOs: Reading Political Signs in the Fate of Gongmeng," China Media Project (Online), translation by David Bandurski, 30 July 09; Michael Sainsbury, "China Targets Lawyers in Rights Crackdown," Australian (Online), 7 August 09.

[3] For purposes of this section, the term "NGO" refers to NGOs recognized in Chinese law (of which the various types recognized under Chinese law are sometimes referred to collectively in English as civil society organizations or social organizations), as well as those not registered with the government, or those that operate as a legally recognized organization but are not considered an NGO according to Chinese law.

[4] Article 22 of the International Covenant on Civil and Political Rights also provides that: "[N]o restrictions may be placed on the exercise of [freedom of association] other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety . . ." International Covenant on Civil and Political Rights, adopted 16 December 66, effective 23 March 76, art. 22.

[5] Chinese Human Rights Defenders (Online), "Reining in Civil Society: The Chinese Government's Use of Laws and Regulations To Persecute Freedom of Association," 10 August 09; U.S. Embassy Beijing (Online), "Chinese NGOs—Carving a Niche Within Constraints," January

2003. The Chinese Government appears to officially recognize four types of NGOs: (1) social organizations (*shehui tuanti*), (2) private, non-enterprise units (*minban feiqiye danwei*), (3) foundations (*jijinhui*), and (4) non-mainland foundation representative offices. Bureau of Civil Society Groups Administration (Online), Ministry of Civil Affairs (MOCA), People's Republic of China, last visited 7 July 09. In addition to the four types of NGOs recognized by MOCA, there are a number of other organizations that in effect operate as NGOs but whose legal status is other than an NGO. According to a Peking University research study released in December 2008, these organizations include: NGOs registered as commercial enterprises; urban community-based organizations; social groups linked to work units; rural community development organizations; farmers' economic cooperation associations; other public interest or mutual aid associations in rural communities; foreign aid organizations in China; foreign projects in China; foreign chambers of commerce and industry associations; and religious groups. Gao Bingzhong and Yuan Ruijun, eds., Blue Book on Civil Society Development in China [Zhongguo gongmin shehui fazhan lanpishu] (Beijing: Peking University Press, 2008), 19.

[6] Chinese Human Rights Defenders (Online), "Reining in Civil Society: The Chinese Government's Use of Laws and Regulations To Persecute Freedom of Association," 10 August 09; U.S. Embassy Beijing (Online), "Chinese NGOs—Carving a Niche Within Constraints," January 2003. These restrictive registration requirements violate the right to freedom of association as defined by international human rights standards. CECC, 2007 Annual Report, 10 October 07, 141. See Regulations on the Registration and Management of Social Organizations [Shehui tuanti dengji guanli tiaoli], issued and effective 25 October 98, arts. 3, 6; Temporary Regulations on the Registration and Management of Private, Non-Enterprise Units [Minban feiqiye danwei dengji guanli zanxing tiaoli], issued 25 September 98, effective 25 October 98, arts. 3, 5; Regulations on the Management of Foundations [Jijinhui guanli tiaoli], issued 8 March 04, effective 1 June 04, arts. 7, 9(5).

[7] Regulations on the Registration and Management of Social Organizations [Shehui tuanti dengji guanli tiaoli], issued and effective 25 October 98, arts. 3, 6, 9. The regulations use the term "social organizations" to refer to non-profit organizations voluntarily created by Chinese citizens in order to achieve the collective desires of members, and conduct activities according to their charters. All groups other than state bureaus may join social organizations as institutional members. Regulations on the Registration and Management of Social Organizations [Shehui tuanti dengji guanli tiaoli], issued and effective 25 October 98, art. 2. The Commission in 2005 described social organizations as voluntary associations such as academic or professional groups. CECC, 2005 Annual Report, 11 October 05, 166.

[8] Temporary Regulations on the Registration and Management of Private, Non-Enterprise Units [Minban feiqiye danwei dengji guanli zanxing tiaoli], issued 25 September 98, effective 25 October 98, arts. 3, 5. "The regulations use 'private, non-enterprise units' to refer to social groups that are engaged in non-profit social services and that are organized by enterprises, social organizations, other social forces, and individual citizens with the use of non-state funds." Temporary Regulations on the Registration and Management of Private, Non-Enterprise Units [Minban feiqiye danwei dengji guanli zanxing tiaoli], issued 25 September 98, effective 25 October 98, art. 2.

[9] Regulations on the Management of Foundations [Jijinhui guanli tiaoli], issued 8 March 04, effective 1 June 04, arts. 7, 9(5).

[10] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Reports on Human Rights Practices—2007, China (includes Tibet, Hong Kong, and Macau), 11 March 08.

[11] CECC, 2007 Annual Report, 10 October 07, 141–142; Regulations on the Management of Foundations [Jijinhui guanli tiaoli], issued 8 March 04, effective 1 June 04, arts. 9, 13.

[12] CECC, 2005 Annual Report, 11 October 05, 82. See also CECC, 2008 Annual Report, 31 October 08, 144; CECC, 2007 Annual Report, 10 October 07, 142.

[13] According to the city's policy, Beijing-based organizations can register and submit application materials at the Beijing City Social Work Committee's Social Work Office. After an interagency examination, the Social Work Office will then respond with a decision within 20 working days. "Beijing Municipal Government Appoints Ten Centers for Social Organizations" [Beijing shizhengfu wei minjian zuzhi zhiding le shige niangjia], Jinghua Net, reprinted in Chinese Human Rights Defenders (Online), 13 April 09; Guo Aiti, "Social Work Committee To Accept Social Organization Applications Next Month" [Shegongwei xiayue jieshou shetuan chengli shenqing], Jinghua Net (Online), 7 March 09.

[14] Zhao Ling, "Public Interest Group Falls Into 'Tax Finance' Trap" [Gongyi zuzhi shenxian "caishui" kunjing], Southern Weekend (Online), 23 July 09; Chinese Human Rights Defenders (Online), "Reining in Civil Society: The Chinese Government's Use of Laws and Regulations To Persecute Freedom of Association," 10 August 09; U.S. Embassy Beijing (Online), "Chinese NGOs—Carving a Niche Within Constraints," January 2003.

[15] The Commission in 2005 reported that unregistered groups generally experience little or no government interference as long as they avoid financial misdeeds or overt political challenges. CECC, 2005 Annual Report, 11 October 05, 82.

[16] See, e.g., Zhao Ling, "Public Interest Group Falls Into 'Tax Finance' Trap" [Gongyi zuzhi shenxian "caishui" kunjing], Southern Weekend (Online), 23 July 09; Chinese Human Rights Defenders (Online), "Reining in Civil Society: The Chinese Government's Use of Laws and Regulations To Persecute Freedom of Association," 10 August 09; CECC, 2007 Annual Report, 10 October 07, 142.

[17] CECC, 2007 Annual Report, 10 October 07, 143.

[18] The fines levied were for unpaid taxes related to a series of donations to OCI made by Yale University's China Law Center between 2006 and 2008. The fine levied against OCI amounts to five times what OCI allegedly owed the government. See Andrew Jacobs, "Arrest in China Rattles Backers of Legal Rights," New York Times (Online), 9 August 09; Chinese Human

Rights Defenders (Online), "'Open Constitution Initiative' Faces 1.42 Million Yuan Tax Administration Fine" ["Gongmeng" mianlin 142 wan yuan de shuiwu chufa], 16 July 09.

[19] For example, OCI in 2008 attempted to file lawsuits on behalf of families whose infants or children had become ill as a result of consuming products made with tainted milk powder, and in 2009, OCI released a report that investigated the cause of the Tibetan protests and rioting in March 2008. "Beijing Think Tank Faults Domestic Policies, Issues for March 2008 Tibetan Rioting," CECC China Human Rights and Rule of Law Update, No. 4, 2009, 2; Zhu Zhe and Cui Xiaohuo, "Legal Help Group Told To Pack Up," China Daily (Online), 18 July 09.

[20] Zhu Zhe and Cui Xiaohuo, "Legal Help Group Told To Pack Up," China Daily (Online), 18 July 09; Jonathan Landreth, "China Reins in More Rights Activists by Seizing Computers," Christian Science Monitor (Online), 17 July 09.

[21] Ibid.

[22] The number of government-registered NGOs in China rose to 400,000 by the end of 2008, up from 387,000 in 2007 and 154,000 in 2000. "Recommendation To Include 'NGO Management Law' in the Legislative Plan" [Jianyi jiang "minjian zuzhi guanli fa" lieru lifa guihua], Beijing News (Online), 3 March 09; CECC, 2008 Annual Report, 31 October 08, 144.

[23] Gao Bingzhong and Yuan Ruijun, eds., Blue Book on Civil Society Development in China [Zhongguo gongmin shehui fazhan lanpishu] (Beijing: Peking University Press, 2008), 18.

[24] CECC, 2007 Annual Report, 10 October 07, 142.

[25] For example, private citizens reportedly have drafted laws for the consideration of the National People's Congress. Tian Xianghua, "Two Civil Society Individuals Spent 4 Years Drafting 'Public Interest Litigation Law (Draft)'" [Liangwei minjian renshi lishi sinian qicao "gongyi susongfa (cao'an)"], First Financial Daily, reprinted in Hexun (Online), 19 July 06.

[26] CECC staff interviews with international NGOs that have NGO lobbying and advocacy training programs in China. Song Zonghe, "Meng Weina: NGOs Should Actively Participate in Lawmaking" [Meng weina: fei zhengfu zuzhi ying jiji canyu lifa], China Philanthropy Times, reprinted in ChinaNGO.Net (Online), 2 February 05.

[27] The committee will also work to prevent some government offices from institutionalizing their interests, as well as work to decrease the expansion of executive power through legislation. "Beijing To Establish Experts' Legislative Committee" [Beijing jiang chengli zhuanjia lifa weiyuanhui], Jinghua Net, reprinted in Xinhua (Online), 21 March 09.

[28] PRC Central People's Government (Online), "Legislative Affairs Office: 24 Administrative Law and Regulation Drafts Solicited Opinions on the Internet Last Year" [Fazhiban: Qunian ershisi bu xingzheng fagui cao'an wangshang gongkai zhengqiu yijian], 24 March 09.

[29] "Luoyang Trial of 'Civil Society Lawmaking' To Prevent Legislative Affairs Offices From Benefiting" [Luoyang shishui "minjian lifa" dujue lifa bumen liyihua], Dahe Net (Online), 10 April 08.

[30] According to one Tsinghua University scholar, environmental issues in China often enjoy broader public support and are in some cases less politically sensitive than other issues. Environmental issues also often frequently align and agree with government policies. "Jia Xijin: Analysis of Methods of Chinese Citizens' Participation in NGOs" [Jia xijin: zhongguo gongmin canyu de feizhengfu zuzhi tujing fenxi], TECN.net (Online), 25 March 09.

[31] CECC, 2006 Annual Report, 20 September 06, 102, 103.

[32] Local governments reportedly pressured three NGOs to withdraw their endorsement for a statement initiated by the Beijing Aizhixing Research Institute which was calling for changes to the Global Fund AIDS Grant's Beijing-based secondary recipients from 2007 to 2009. Hunger Strike for AIDS (Online), "Three NGOs' Statements Regarding Changing Their Endorsements Due to Pressure" [Sange zaoshou yali gaibian lichang de feizhengfu zuzhi jiqi xiangguan shengming], 2 March 09; Wang Long, "Wang Long: My Random Thoughts" [Wang long wode suixiang], Tongzhi Google Group, reprinted by Chang Kun on China AIDS Group Blog (Online), 2 March 09.

[33] According to foreign news media reports, Beijing public security officers and officials from the Beijing City Cultural Law Enforcement Agency raided the offices of Beijing Yirenping Center—a public health NGO that works to raise awareness about public health risks and eliminate discrimination against those who carry diseases—and confiscated more than 90 copies of the center's China's Anti-Discrimination Legal Action Newsletter. "Beijing Authorities Raid Non-Governmental Organization Yirenping" [Beijing dangju soucha feizhengfu zuzhi yirenping], Voice of America (Online), 29 July 09; Human Rights in China (Online), "Raid of Public Interest Group Reveals Degree of Information Control," 29 July 09.

[34] For example, Guangzhou city public security officials on the evenings of March 30 and April 4, 2009, reportedly took away between 50 and 60 people who gathered in People's Park because "there were too many homosexuals in the park." Those who were taken away for examination included volunteers of Chi Heng Foundation, a Hong Kong-based organization that assists children affected by HIV/AIDS. The volunteers were reportedly taken away while conducting regular outreach work. Chi Heng Foundation, "Police Took Away About 60 Homosexuals Who Were Chatting in the People's Park in Guangzhou" [Jinliushiming tongxinglianzhe zai guangzhou renmin gongyuan liaotian bei jingfang daizou panwen], reprinted in Xiyangzhiyue (Online), 4 April 09. On June 10, 2009, during Shanghai's hosting of the country's first Gay Pride Festival, the Shanghai Municipal Government Commerce Bureau reportedly pressured two venues to cancel a play and a film screening. A foreign news media report suspected that the disruption was a result of local officials' nervousness about being unable to fully control public events. Chris Hogg, "China Bans Parts of Gay Festival," BBC (Online), 11 June 09; Qian Yanfeng, "Shanghai Hosts First Gay Pride Festival," China Daily (Online), 10 June 09; "Pride of Tolerance," China Daily (Online), 10 June 09.

[35] For example, from April 24 to May 9, 2009, the Shenzhen Public Security Bureau detained Guo Yongfeng, a Shenzhen-based democracy and anticorruption activist, for "illegal" civil society activity. Guo had been preparing to establish an organization, the Citizens' Association for Government Oversight, to address corruption issues. Chinese Human Rights Defenders (Online),

"Citizens' Association for Government Oversight Planner Guo Yongfeng Detained for 4 Days Due to June 4th" [Gongmin jianzhenghui choubanren guo yongfeng yinwei liusi bei jianjin 4 tian], 7 June 09; Chinese Human Rights Defenders (Online), "Citizens' Association for Government Oversight Planner Guo Yongfeng Released After 15 Days of Detention" [Gongmin jianzhenghui choubanren guo yongfeng bei juliu 15 tian hou huoshi], 9 May 09; "Guo Yongfeng Brief Biography and Statement" [Guo yongfeng jianli ji shenming], Boxun (Online), 10 May 09.

[36] In November 2008, public security officials from the Nanjing Municipal Public Security Bureau (PSB) detained Guo Quan, founder of the China New Democracy Party (CNDP) and a former associate professor of Nanjing Normal University. "Democracy Activist Guo Quan Detained Beyond Legal Time Limit" [Minzhu renshi guo quan bei chaoqi jiya], Radio Free Asia (Online), 29 November 08. On June 18, 2009, the Suqian Intermediate People's Court in Jiangsu province delivered an indictment to Guo and informed Guo's mother that a court date would be selected for Guo and that he had been charged with "subversion of state power." "Court Puts Guo Quan Case on File, Family Pessimistic" [Guo quan anjian fayuan lian jiaren beiguan], Radio Free Asia (Online), 18 June 09. Chinese Human Rights Defenders, a human rights NGO, suspected that Guo's arrest is related to his work in organizing the China New Democracy Party and for publishing articles critical of the Nanjing municipal government. Chinese Human Rights Defenders (Online), "Nanjing Political Activist Guo Quan Detained on Suspicion of 'Inciting Subversion,'" 14 November 08. Guo's trial opened in early August 2009 in Suqian, Jiangsu. Edith Wong, "Founder of Chinese Political Group To Be Tried," Associated Press (Online), 6 August 09.

[37] The UN Human Rights Council's Review of China's Record: Process and Challenges, Staff Roundtable of the Congressional-Executive Commission on China, 16 January 09, Testimony of Xiaorong Li, Senior Researcher, Institute for Philosophy and Public Policy, University of Maryland, Remarks During Question and Answer Period.

[38] The three grassroots organizations were Beijing Aizhixing Institute, Beijing Legal Aid Office for Migrant Workers, and Beijing Children's Legal Aid and Research Center. UN Office of the High Commissioner for Human Rights (Online), Universal Periodic Review—China—Reference Documents, Civil Society. See also "UN Human Rights Council To Review China's Human Rights Record," Congressional-Executive Commission on China (Online), 2 February 09.

[39] Zhu Zhe and Cui Xiaohuo, "Legal Help Group Told To Pack Up," China Daily (Online), 18 July 09; Beijing Municipal Civil Affairs Bureau, Decision Concerning Closure of "Gongmeng Legal Research Center" [Guanyu qudi "gongmeng falu yanjiu zhongxin" de jueding], reprinted in Democratic China (Online), 17 July 09.

[40] Teng Biao, "The Law on Trial in China," Washington Post (Online), 25 July 09.

[41] Open Constitution Initiative Web site (Online), "About Us," last visited 13 July 09 (Web site no longer accessible).

[42] "Beijing Think Tank Faults Domestic Policies, Issues for March 2008 Tibetan Rioting," Congressional-Executive Commission on China (Online), 4 July 09.

[43] Xu had been planning to attend a hearing on July 30 with the State Administration of Taxation about its decision to fine OCI for "tax evasion." Chinese Human Rights Defenders (Online), "Police Take Away Xu Zhiyong, Leader of Barred NGO," 31 July 09; Sky Canaves, "China Detains Prominent Legal Activist," Wall Street Journal (Online), 31 July 09. Xu was released on bail on August 23. Sky Canaves, "Beijing Frees Jailed Activist Xu Zhiyong," Wall Street Journal (Online), 24 August 09.

[44] Asia Pacific Philanthropy Consortium (Online), "China: Philanthropy," last visited 7 July 09; Michael Mackey, "The New Chinese Philanthropy," Asia Times (Online), 14 May 05.

[45] According to a Ministry of Civil Affairs report, the value of donations in and to mainland China in 2008 totaled 107 billion yuan (US$15.67 billion), the largest value in donations since the founding of the People's Republic of China in 1949 and 3.5 times more than the amount donated in and to mainland China in 2007. Seventy-seven percent of the 107 billion yuan (US$15.67 billion) donated was dispersed to 47.66 million people. The report valued foreign donations to mainland China at 13.54 billion yuan (US$1.98 billion), or about 13.4 percent of the total amount. Ministry of Civil Affairs (Online), 2008 Chinese Charitable Donations Report [2008 niandu zhongguo cishan juanzhu baogao], 10 March 09. See also Asia Pacific Philanthropy Consortium (Online), "China: Philanthropy," last visited 7 July 09.

[46] CECC, 2008 Annual Report, 31 October 08, 144. See also "Quake Shakes 'Official' Charities in China," Caijing (Online), 30 June 08.

[47] Charles Hutzler, "Government Blunts Activism Set Off by China Quake," Associated Press (Online), 9 May 09. For perspectives on the role of NGOs after the earthquake, see Peter Ford, "China Quake: From Rubble, Civil Society Builds," Christian Science Monitor (Online), 10 May 09; Wang Yingchun, "The Strength of NGOs Becomes More Evident in the Post-Disaster Reconstruction Effort" [NGO zai zaihou chongjian zhongde youshi jiang geng mingxian], China Economic Herald, reprinted in Zhejiang Normal University, Agriculture Research Center (Online), 3 June 08; Wang Zhuoqiong, "CPC Official Praises NGOs' Role in Relief Work," China Daily (Online), 27 May 08; "Quake Shakes 'Official' Charities in China," Caijing (Online), 30 June 08; "Wenchuan Earthquake: NGOs' Growth and Breaking Through Challenges" [Wenchuan dizhen: NGO de shenzhang yu jiannan tupo], China Economic Times, reprinted in West Women (Online), 4 June 08.

[48] PRC Corporate Income Tax Law [Zhonghuarenmin gongheguo qiye suode shui fa], issued 16 March 07, effective 1 January 08, arts. 9, 26(4); PRC Public Welfare Donations Law [Zhonghua renmin gongheguo gongyishiye juanzeng fa], issued 28 June 99, effective 1 September 99; PRC Red Cross Law [Zhonghua renmin gongheguo hongshizihui fa], issued and effective 31 October 93, arts. 20(2), 23; Regulations on the Registration and Management of Social Organizations [Shehui tuanti dengji guanli tiaoli], issued and effective 25 October 98, art. 29; Regulations on the Management of Foundations [Jijinhui guanli tiaoli], issued 8 March 04, effective 1 June 04, arts. 1, 2, 25, 26, 27; Temporary Regulations on the Registration and Management of Private, Non-Enterprise Units [Minban feiqiye danwei dengji guanli zanxing tiaoli],

issued 25 September 98, effective 25 October 98, arts. 21, 22; Implementation Regulations on the PRC Individual Income Tax Law [Zhonghua renmin gongheguo geren suodeshuifa shishi tiaoli], issued 19 December 05, effective 1 January 06, art. 24.

[49] PRC Corporate Income Tax Law [Zhonghuarenmin gongheguo qiye suode shui fa], issued 16 March 07, effective 1 January 08, art. 9; PRC Public Welfare Donations Law [Zhonghua renmin gongheguo gongyishiye juanzeng fa], issued 28 June 99, effective 1 September 99, art. 24; Implementation Regulations on the PRC Individual Income Tax Law [Zhonghua renmin gongheguo geren suode shui fa shishi tiaoli], issued 19 December 05, effective 1 January 06, art. 24; CECC, 2008 Annual Report, 31 October 08, 146.

[50] Circular Regarding Issues Relating to Pre-Tax Deductions for Public Welfare Donations [Guanyu gongyixing juanzeng shui qian kouchu youguan wenti de tongzhi], issued 31 December 08, effective 1 January 08, art. 11. The December 2008 circular requires all public-interest-oriented NGOs to apply for the new tax-exempt status, regardless of their tax-exempt status before the issuance of the circular. Authorities issued the February 2009 circular primarily to satisfy the requests of foundations that had been granted tax-exempt status before 2008. None of the foundations that had tax-exempt status before 2008 were able to receive tax-exempt status in accordance with the December 2008 circular, because that circular was issued on December 31, 2008, but was effective only starting from January 1, 2008. Circular Regarding Foundations Applying for Public Donation Tax-Exempt Status With the Ministry of Civil Affairs [Zai minzhengbu dengji de jijinhui shenqing gongyixing juanzeng shuiqian kouchu zige xuzhi], issued 19 February 09, sec. 2.

[51] Between 2000 and December 2007, only 69 national-level public interest organizations and NGOs were reportedly able to obtain tax-exempt status. "Corporate Donation Tax Preferences Still in a Vacuum" [Guojia qiye juanzeng shuishou youhui chuyu zhenkong zhuangtai], China Philanthropy Times (Online), 16 June 09. The majority of NGOs in China, regardless of their registration status, cannot engage in fundraising activities because charity-related laws only allow a small number of government-approved foundations to collect and distribute donations. CECC, 2008 Annual Report, 31 October 08, 144.

[52] Circular Regarding Issues Relating to Pre-Tax Deductions for Public Welfare Donations [Guanyu gongyixing juanzeng shui qian kouchu youguan wenti de tongzhi], issued 31 December 08, effective 1 January 08, art. 6.

[53] "82 Social Organizations in Beijing Obtain Status for Pre-Tax Deductions of Donations" [Beijing shishu 82 jia shehui zuzhi huode juanzengshui qian kouchu zige], China Philanthropy Times (Online), 16 June 09. In April 2009, the Hunan provincial government published a list of 44 foundations and 11 social organizations in Hunan province that have been granted the new tax-exempt status. Transmitting the Ministry of Finance, State Administration of Taxation, and the Ministry of Civil Affairs Circular Regarding Issues Relating to Pre-Tax Deductions for Public Welfare Donations [Zhuanfa caizhengbu guojiashuiwuzongju minzhengbu guanyu gongyixing juanzengshui qian kouchu youguan wenti de tongzhi], issued 16 April 09.

[54] Circular Regarding Issues Relating to Pre-Tax Deductions for Public Welfare Donations [Guanyu gongyixing juanzeng shui qian kouchu youguan wenti de tongzhi], issued 31 December 08, effective 1 January 08, arts. 4, 6.

[55] None of the nearly 60 foundation applications submitted by the Ministry of Civil Affairs to the Ministry of Finance and the State Administration of Taxation have been approved. See "Corporate Donation Tax Break Still in a Vacuum" [Guojia qiye juanzeng shuishou youhui chu zhenkong zhuangtai], China Philanthropy Times (Online), 16 June 09.

[56] "Charity Law To Be Included in State Council's NPC Legislative Plan" [Cishanfa lieru guowuyuan he renda changwei lifa jihua], Jinghua Net, reprinted in Sina.com (Online), 10 March 06.

[57] Ibid.

[58] Chen Liping, "Last Year's Donations More Than Last 10 Years' Total; Ministry of Civil Affairs To Discuss Draft Charity Law" [Qunian juanzeng chao shinian zonghe tuidong lifa minzhengbu jiang taolun cishanfa caoan], Legal Daily (Online), 19 May 09.

[59] See, e.g., "Ministry of Civil Affairs: Charity Organizations To Receive Special Financial Support" [Minzhengbu cishanzuzhi jiang huo zhuanxiang caizheng zijin zhichi], China Philanthropy Times (Online), 9 June 09; "China's Ministry of Civil Affairs and Charity Organizations To Discuss Building of Emergency Response Information Platform" [Zhongguo minzhengbu yu cishan zuzhi tantao yingji jiuzhu xinxi pingtai jianshe], China News Net, reprinted in Xinhua (Online), 20 March 09; "Ministry of Civil Affairs Plans To Establish Emergency Response Information Platform" [Minzhengbu ni jian yingji jiuzhu xinxi pingtai], China Philanthropy Times (Online), last visited 24 March 09.

[60] Gao Bingzhong and Yuan Ruijun, eds., Blue Book on Civil Society Development in China [Zhongguo gongmin shehui fazhan lanpishu] (Beijing: Peking University Press, 2008), 84.

[61] CECC, 2004 Annual Report, 5 October 04, 71. The 1998 Temporary Regulations on the Registration and Management of Public Institutions (amended in June 2004) refer to public institutions as "social service organizations sponsored by government agencies or other organizations using government assets that engage in educational, science and technological, cultural, medical, and other activities for the purpose of social interests." Temporary Regulations on the Registration and Management of Public Institutions [Shiye danwei dengji guanli zanxing tiaoli], issued and effective 25 October 98, amended 27 June 04, art. 2.

[62] Examples of such "public sector" actors in a market economy include police stations, as well as public hospitals, schools, and research institutions. Gao Bingzhong and Yuan Ruijun, eds., Blue Book on Civil Society Development in China [Zhongguo gongmin shehui fazhan lanpishu], (Beijing: Peking University Press, 2008), 79, 80.

[63] CECC, 2004 Annual Report, 5 October 04, 71.

[64] See, e.g., "Market Reforms of Hospitals in China," Gao Bingzhong and Yuan Ruijun, eds., in Blue Book on Civil Society Development in China [Zhongguo gongmin shehui fazhan lanpishu], (Beijing: Peking University Press, 2008), 90.

[65] CECC, 2004 Annual Report, 5 October 04, 71.
[66] "Expert Analysis of Organizational Reform: Public Institutions Will Be Divided Into Three Categories" [Zhuanjia jiexi jigou gaige: shiye danwei jiang bei fencheng sanlei], China News Net (Online), 17 March 08.

Notes to Section III—Institutions of Democratic Governance

[1] State Council Information Office, White Paper on Building of Political Democracy in China [Zhongguo minzhu zhengzhi jianshe], 19 October 05, preface. The White Paper states, "Democratic rule means that the CPC [Communist Party of China] sticks to the principle of ruling the country for the people and relying on the people in its rule, guarantees that the people are the masters of the state, upholds and improves the people's democratic dictatorship and the democratic centralism of the Party and the state, and promotes people's democracy by enhancing inner-Party democracy." Ibid., sec. VIII.

[2] State Council Information Office, White Paper on China's Political Party System [Zhongguo de zhengdang zhidu baipishu], Xinhua (Online), 15 November 07, preface.

[3] "Multi-party cooperation and political consultation system under the leadership of the Communist Party of China shall continue to exist and develop for a long time to come." Ibid., quoting the PRC Constitution.

[4] International Covenant on Civil and Political Rights (ICCPR), adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76. China has signed, but has not yet ratified, the ICCPR. As in previous years, the Chinese Government this reporting year continued to reiterate its commitment to ratifying the ICCPR, which China signed in 1998. In February 2009, during the UN Human Rights Council's Universal Periodic Review of China's human rights record, the Chinese Government supported recommendations made by Member States that China ratify the ICCPR. At the time, Chinese officials also said China was in the process of amending domestic laws, including the criminal procedure law and laws relating to reeducation through labor, to make them compatible with the ICCPR. UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, paras. 63, 114(1). Moreover, in the 2009–2010 National Human Rights Action Plan (HRAP) issued by the Chinese Government in April 2009, officials stated that the ICCPR was one of the "fundamental principles" on which the plan was framed, and that the government "will continue legislative, judicial and administrative reforms to make domestic laws better linked with this Covenant, and prepare the ground for approval of the ICCPR." State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, introduction, sec. V(1).

[5] International Covenant on Civil and Political Rights (ICCPR), adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 25. Under General Comment 25 to the ICCPR, this language requires that: "The right of persons to stand for election should not be limited unreasonably by requiring candidates to be members of parties or of specific parties; Party membership should not be a condition of eligibility to vote; it is implicit in article 25 that [elected] representatives do in fact exercise governmental power and that they are accountable through the electoral process for their exercise of that power; an independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant; freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected." International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, General Comment 25.

[6] Chinese President Hu Jintao has called for improved democracy within the Party, which as of 2008 had approximately 76 million members, a 17-fold increase since 1949. Kristine Kwok, "Hu Urges Improved Democracy Within the Communist Party," South China Morning Post (Online), 1 July 09. Twenty-three percent of Party members are under the age of 35. "CCP Is at an Important Phase of 'Intergenerational Succession'" [Zhonggong muqian zheng chuzai "daijijiti" de shike], Radio Free Asia (Online), 1 July 09.

[7] "CCP Members Have Increased 16 Fold in the 60 Years Since the Founding of the PRC, Totaling Nearly 76 Million" [Xin zhonguo chengli 60 nian lai zhongguo gongchandang dangyuan zengjia 16 bei zongshu jin 7600 wan ming], Xinhua, reprinted in People's Daily (Online), 30 June 09.

[8] For further discussion of various Party organizations, see, e.g., "The Effort To Build Party Organizations in Law Firms Has Experienced Breakthrough Progress To Realize Complete Coverage" [Lushi hangye dang zuzhi jianshe qude tupoxing jinzhan shixian quan fugai], Legal Daily (Online), 25 June 09. Mass organizations are described by the Chinese Government as "a bridge linking the CPC [Communist Party of China] and government with the people. They are [an] important social support for State power, playing a vital role in socialist democratic life." Embassy of the People's Republic of China in the Federal Democratic Republic of Nepal (Online), "Major Mass Organizations," 27 October 04.. The major mass organizations in China include: the All-China Federation of Trade Unions, the Communist Youth League of China, the All-China Women's Federation, the All-China Federation of Industry and Commerce, the All-China Taiwan Compatriots Association, the All-China Students' Federation, and the All-China Youth Federation. For a discussion of local residents' committees, see Benjamin Read, "Revitalizing the State's Urban 'Nerve Tips,'" 163 China Quarterly 806, 807–808 (2000).

[9] Benjamin Read, "Revitalizing the State's Urban 'Nerve Tips,'" 163 China Quarterly 806, 807–808 (2000).

[10] The residents committees implement Party and government policies, such as birth control, and engage in a number of other tasks, including providing social services, collecting fees, and mediating disputes. They maintain close ties to police stations. Benjamin Read, "Revitalizing the State's Urban 'Nerve Tips,'" 163 China Quarterly 806, 807–808 (2000). The residents committees also help to organize citizens for security tasks, such as patrolling the streets and reporting

"suspicious characters or bomb-like objects to the authorities" in the run-up to the 2008 Beijing Summer Olympic Games. Willy Lam, "CCPLA: Tightening the CCP's Rule Over Law," China Brief (Online), 2 April 09.

[11] "In China, No Plans To Emulate West's Way," New York Times (Online), 10 March 09.

[12] Wu's remarks as cited in "In China, No Plans To Emulate West's Way," New York Times (Online), 10 March 09.

[13] Wu Bangguo, Chairman of the Standing Committee of the National People's Congress, Report on the Work of the Standing Committee of the National People's Congress, Second Session of the Eleventh National People's Congress, 9 March 09. See also "Highlights of NPC Chairman Wu Bangguo's Work Report," China Daily (Online), 9 March 09.

[14] "The Six Why's" [Liu ge weishenme], China Central Television (Online), 19 June 09.

[15] For a more indepth discussion of the "six why's" and their answers, see China Media Project (Online), "Because Forsaking Marxism Means Toppling the Great Wall," 19 June 09.

[16] "The Six Why's" [Liu ge weishenme], China Central Television (Online), 19 June 09.

[17] Central-level authorities reportedly embarked on a special campaign called the "6521 project" to further ensure social stability in 2009. Ni An, "CCP Leadership Establishes Special Group To Ensure 'Social Stability' During Sensitive Anniversaries" [Zhonggong gaozeng chengli zhuanmen xiaozu yingdui minggan ji'nianer quebao shehui wending], Radio France International (Online), 10 March 09. All provinces and municipalities have been asked to set up similar "6521 task forces." "Taskforces Set Up To Keep Lid on Protests," South China Morning Post (Online), 28 February 09. In the first half of 2009, the Ministry of Public Security embarked on a three-month nationwide campaign to train approximately 3,080 county-level public security bureaus, and, according to a Xinhua article, the Minister of Public Security, Meng Jianzhu, has "urged public security heads at county-level bureaus to get better at dealing with conflicts." "Public Security Minister Urges Enhanced Capacity To Deal With Conflicts," Xinhua (Online), 8 April 09.

[18] "China Vows To Address Public Complaints To Maintain Social Stability," Xinhua (Online), 5 March 09 (Open Source Center, 5 March 09).

[19] While stability maintenance leading groups have been in existence since the 1990s, authorities have set up the stability maintenance offices only in recent years. Liao Haiqing, "Stability Maintenance Offices Taking the Stage," Southern Wind Window, 8 April 09 (Open Source Center, 8 April 09). These offices were established under the Party Central Committee and are under the control of the Central Stability Maintenance Leading Group (Zhongyang weihu wending lingdao xiaozu), headed by Zhou Yongkang. The Leading Group includes not only representatives from the Central Political-Legal Committee, but also members from the public security, procuratorial, justice, and propaganda departments. The functions of the stability maintenance offices are varied and relate to coordinating and guiding resolution of mass incidents and major cases, collecting relevant information, and making policy suggestions. Ibid.

[20] As part of an early warning system, stability maintenance offices in some areas, such as Pingyang county in Zhejiang province, reportedly are required to conduct risk assessments of all major projects, proposed policies, and reform measures in a location to determine the probability that conflicts or social instability will emerge. When a "serious conflict" occurred in Pingyang county related to a major project that had not undergone an assessment, "those responsible were tracked down and were deemed to have failed their evaluation." Ibid.

[21] Ibid.

[22] Xu Dongmei, Research on Chinese Communist Party Intra-Party Democracy [Zhongguo gongchandang dangnei minzhu yanjiu], (Beijing: Party Construction Reading Materials Press, 2004), 7.

[23] See Deng Xiaoping, "Report on the Revision of the Constitution of the Communist Party of China," People's Daily (Online), 16 September 56, quoting Deng's statement, "The measures taken for the development of inner-Party democracy are not meant to weaken necessary centralization in the Party, but to supply it with a powerful and vigorous base." Democratic centralism, the fundamental organizational principle of the Party as outlined by the Constitution of the Communist Party of China, is closely tied to the principle of "inner-Party democracy." "Democratic centralism is a combination of centralism on the basis of democracy and democracy under centralized guidance." PRC Constitution. Development of inner-Party democracy was all but abandoned during the Cultural Revolution (1966 to 1976), but was revived after 1978 when the concept of "collective leadership" once again became a guiding principle of the Party. Xu Dongmei, Research on Chinese Communist Party Intra-Party Democracy [Zhongguo gongchandang dangnei minzhu yanjiu], (Beijing: Party Construction Reading Materials Press, 2004), 3.

[24] David Shambaugh, China's Communist Party: Atrophy and Adaptation (Washington, DC: Woodrow Wilson Center Press, 2008), 138. According to Shambaugh, these efforts included experimenting with multiple-candidate elections for Party committees; exposing Party committees to input and criticism from local citizens; encouraging intra-party criticisms of policies; increasing the transparency of decisionmaking and improving accountability; and increasing the responsiveness of Party decisions to critiques from the "eight minor democratic parties." At the annual meetings of the National People's Congress and Chinese People's Political Consultative Conference in March 2009, President Hu encouraged Party members to supervise and make suggestions regarding intraparty democracy, including efforts to rein in corruption. Kristine Kwok, "Hu Urges Improved Democracy Within the Communist Party," South China Morning Post (Online), 1 July 09.

[25] "Hu Jintao: Speed Up Intra-Party Democracy and Rule of Law" [Hu jintao jiji tuijin dangnei minzhu yifa zhizheng], China Times (Online), 2 July 09.

[26] Shenzhen Government Organs Party Construction (Online), Trial Measures Regarding Nominations by General Approval of CCP Cell Members and Direct Elections of Basic Level Party Cell Leaders in Government Departments Under Direct Jurisdiction of Shenzhen City [Shenzhenshi zhishu jiguan jizeng dang zuzhi lingdao banzi chengyuan gongtui zhixuan banfa

(shixing)], 10 October 08, art. 6. See also China Elections and Governance (Online), "Explanation Behind the Frequency With Which 'Dark Horse' Party Committee Candidates Are Chosen in Shenzhen Using the 'Nomination by Approval, Direct Election' Method" [Shenzhen 'gongtui zhixuan' xuan ganbu 'heima' pinlu beihou], 26 June 09.

[27] Liu Zhaoyang, "Highlights From 'Open Recommendations, Direct Elections' Held for Party Organizations in 7 Eastern Communities in Jinan" [Jinan qi dong shequ dang zuzhi 'gongtui zhixuan' ceji], Xinhua, reprinted in Dazhong Ribao (Online), 17 April 08; Wang Yongbing, "A Survey of Open Recommendation, Direct Election for Village and Town Committees in Sichuan's Pingchang County" [Sichuan sheng pingchang xian xiangzhen dangwei gongtui zhixuan diaocha], 10 China Reform Magazine, reprinted in Jinyueya.cn (Online), 2007.

[28] Shenzhen Government Organs Party Construction (Online), Trial Measures Regarding Nominations by General Approval of CCP Cell Members and Direct Elections of Basic Level Party Cell Leaders in Government Departments Under Direct Jurisdiction of Shenzhen City [Shenzhenshi zhishu jiguan jizeng dang zuzhi lingdao banzi chengyuan gongtui zhixuan banfa (shixing)], 10 October 08, art. 9.

[29] Ibid., arts. 10–13. Articles 10–13 provide that Party members meet together to discuss the candidates and create a list of candidates for primary election consideration. The primary election lists must have 20 percent more candidates than positions to be filled. The primary election candidate lists are then sent to the Party organization at the next higher level for inspection and approval.

[30] Ibid., arts. 14–16.

[31] David Shambaugh, China's Communist Party: Atrophy and Adaptation (Washington, DC: Woodrow Wilson Center Press, 2008), 137. According to Shambaugh, a CPPCC member had revealed that select CPPCC members "were being more systematically brought into the [Communist Party] policymaking process by being shown drafts of various policy initiatives, party and state documents, and being asked for feedback on them." David Shambaugh, China's Communist Party: Atrophy and Adaptation (Washington, DC: Woodrow Wilson Center Press, 2008), 137.

[32] David Shambaugh, "Let a Thousand Democracies Bloom," International Herald Tribune, reprinted in Brookings Institution (Online), 6 July 07.

[33] David Shambaugh, China's Communist Party: Atrophy and Adaptation (Washington, DC: Woodrow Wilson Center Press, 2008), 137.

[34] The Central Party Opinion on Strengthening the Work of the Chinese People's Political Consultative Conference, issued in February 2006, outlines a broad framework for strengthening the CPPCC. See CECC, 2006 Annual Report, 20 September 06, 127.

[35] Michael Zhang, "Environmental Proposals Attract Attention at the NPC and CPPCC Conferences," Greenlaw (Online), 20 March 09.

[36] CPPCC delegates also comment on major political and social issues to local or national people's congresses. The CPPCC itself will forward delegates' comments, criticisms, or proposals to the relevant government entity. CPPCC delegates may raise issues at any time during the year, while NPC delegates only make proposals during the annual meeting. National People's Congress (Online), "CPPCC Origins and Functions," 3 March 08.

[37] "Commentary: Maturing Mode of 'Deliberative Democracy'—Chinese Way To Achieve Harmonious Politics," Xinhua (Online), 14 March 08.

[38] The representatives approved Wen Jiabao's work report, with only 42 oppositional votes and 22 abstentions, while the Ministry of Finance report was opposed by 315 delegates with 142 abstentions. See "Some Parliamentarians Dare To Cast Dissenting Votes," Newsweek (Online), 13 March 09; "Record of the 11th National NPC Congress Second Meeting Closing Ceremony" [Shiyizeng quanguo renda erci huiyi bimuhui shilu], Phoenix (Online), 13 March 09.

[39] Chen Zhongxiaolu, "Who Are These Guys Really Representing?" Caijing (Online), 12 March 09; S.L. Shen, "The Chinese People's Representatives," United Press International (Online), 9 March 09; Ivan Zhai, "Academic Calls for Full-Time Delegates," South China Morning Post (Online), 11 March 09, reporting that one academic suggested that the NPC and the CPPCC be modified to have "full-time" delegates to improve the quality of proposals and to ensure that representatives could build a more well-rounded view of all the issues facing these representative bodies.

[40] S.L. Shen, "The Chinese People's Representatives," United Press International (Online), 9 March 09.

[41] What "Democracy" Means in China After Thirty Years of Reform, Staff Roundtable of the Congressional-Executive Commission on China, 22 May 09, Testimony of Melanie Manion, Professor of Public Affairs and Political Science, University of Wisconsin-Madison.

[42] These new developments are the result of rules set in place by authorities and not a grassroots movement. Chinese leaders are "taking a risk" by allowing a certain level of democracy to maintain the dominance of the Communist Party and appear legitimate while preventing "run-away" democracy. What "Democracy" Means in China After Thirty Years of Reform, Staff Roundtable of the Congressional-Executive Commission on China, 22 May 09, Testimony of Melanie Manion, Professor of Public Affairs and Political Science, University of Wisconsin-Madison.

[43] Xia Ming, "How To Prevent the Erosion of the People's Congress System by Sinister Influences" [Renda minzhu zhidu jianshe ruhe fangkong heise shili de qinshi], Fudan Political Science Review, No. 6, 2008, 152–153.

[44] "In Hubei Tianmen City, More Than Two Hundred Residents Demand Removal of Local People's Congress Representative" [Hubei tianmen liangbaiduo jumin yaoqiu bamian renda daibiao], Radio Free Asia (Online), 12 March 09.

[45] Chinese Human Rights Defenders (Online), "Hubei Tianmen City Voters Who Want To Recall People's Congress Representative Threatened" [Hubeisheng tianmenshi xuanmin yu bamian renda daibiao fanzao weixie], 29 April 09; "In Hubei Tianmen City, More Than Two Hundred

Residents Demand Removal of People's Congress Representative" [Hubei tianmen liangbaiduo jumin yaoqiu bamian renda daibiao], Radio Free Asia (Online), 12 March 09.

[46] Organic Law of the Villagers' Committees of the People's Republic of China, enacted and effective 4 November 98. According to Article 2 of this law, village committees are not Party organizations, nor are they considered part of the government. Instead, they are "the primary mass organization of self-government" through which "villagers manage their own affairs, educate themselves and serve their own needs and in which election is conducted, decision adopted, administration maintained and supervision exercised by democratic means." According to Article 3, the Party branches at the village level should be separate from the village committee and village Party branches should play "the core leading role" [in village governance]. Article 4 states that the village committees "shall assist the said [township] people's government in its work."

[47] "Village-Based Democracy Developing Quickly in China, Experts Say," Xinhua, 2 April 09 (Open Source Center, 2 April 09); CECC, 2006 Annual Report, 20 September 06, 2.

[48] "Village-Based Democracy Developing Quickly in China, Experts Say," Xinhua, 2 April 09 (Open Source Center, 2 April 09).

[49] China Elections and Governance (Online), "An Overhaul Draft of the Village Committee Organization Law Issued 10 Years Ago To Be Sent to the State Council" [Cun weihui zuzhifa banxing shinian jijiang "daxiu" cao'an yi bao guowuyuan], 4 December 08. Local officials began to experiment with various types of "open village affairs regulations" in 1998 in accordance with a drive to make village affairs transparent. The types of projects and affairs to be made public include "new projects, collective assets and finance, land uses, family planning, fees and levies, contracts, and cadres' salaries." Dali Yang, Discontented Miracle: Growth, Conflict, and Institutional Adaptations in China (Singapore: World Scientific Publishing Co., Pte, Ltd., 2007), 289–292.

[50] China Elections and Governance (Online), "An Overhaul Draft of the Village Committee Organization Law Issued 10 Years Ago To Be Sent to the State Council" [Cun weihui zuzhifa banxing shinian jijiang "daxiu" cao'an yi bao guowuyuan], 4 December 08.

[51] "Democracy Developed Rapidly in Villages," China Daily, 3 April 09 (Open Source Center, 3 June 09).

[52] Quoted in Gui Tao and Li Yunlu, "China's Grassroots Democracy Trudges on Amid Scandals," Xinhua, 4 June 09 (Open Source Center, 4 June 09).

[53] Organic Law of the Villagers Committees of the People's Republic of China, enacted and effective 4 November 98, art. 16.

[54] The villagers reportedly had photographs of corrupt acts at polling places, but their complaints were ignored. "Villagers in Fengqiu, Henan Protest Illegality of Local Election" [Henan fengqiu xian cunmin kangyi difang xuanju weifa], Radio Free Asia (Online), 23 June 09.

[55] Villagers reportedly appealed to Tianjin authorities, but those officials did not respond. Villagers decided to go ahead with the recall vote, which was passed unanimously by 617 villagers present. Despite the vote, the village committee head, Yuan Shiwan, and others refused to step down. Two of Yuan Shiwan's sons and "thugs" reportedly showed up at the house of the leader of the recall committee, Fang Zhaojuan, and beat her to the point that she had to be taken to the hospital. Peter Ford, "A Chinese Experiment in Democracy Meets Fierce Resistance," Christian Science Monitor (Online), 3 September 08.

[56] Ibid.

[57] PRC Regulations on Open Government Information, issued 5 April 07, effective 1 May 08. For more information, see "China Commits to 'Open Government Information' Effective May 1, 2008," CECC China Human Rights and Rule of Law Update, May 2008, 2.

[58] Nine reports were received from the 27 departments of the State Council; 13 reports were received from the 16 departments directly under the State Council; 5 reports were received from the 6 State Council working organs; 11 reports were received from 14 institutions directly under the State Council; 15 reports were received from 19 ministries and commissions directly under the State Council; no reports were received from the 29 coordinating agencies of the State Council; and 9 reports were received from the 31 provincial-level governments. China Transparency (Online), "'Open Government Information Deadline' Has Arrived, Many Ministry Reports Are 'Blank'" [Zhengfu xinxi gongkai shixian dao hen duo bumen jiao "baijuan"], 3 April 09.

[59] See, e.g., State Council General Office Opinion Regarding Certain Issues in the Implementation of the "PRC Open Government Information Regulations" [Guowuyuan bangongting guanyu shishi "zhonghua renmin gongheguo zhengfu xinxi gongkai tiaoli"], issued 29 April 08; "China Commits to 'Open Government Information' Effective May 1, 2008," CECC China Human Rights and Rule of Law Update, May 2008, 2.

[60] See, e.g., "Three Knotty Problems One Year After Implementation of Open Government Information—the Government Has a Headache and the Masses Are Disappointed" [Sannan nanzhu zhengfu xinxi gongkai shishi yinian zhengfu toutong minzong shiwang], Economic Observer, reprinted in China Transparency (Online), 14 March 09; State Council General Office Opinion Regarding Certain Issues in the Implementation of the "PRC Open Government Information Regulations" [Guowuyuan bangongting guanyu shishi "zhonghua renmin gongheguo zhengfu xinxi gongkai tiaoli"], issued 29 April 08; "China Commits to 'Open Government Information' Effective May 1, 2008," CECC China Human Rights and Rule of Law Update, May 2008, 2.

[61] Song Yuandan, Deng Jiangbo, Wu Xiaofang, "Foshan Accepts 4 Open Information Requests, Guangzhou Accepts 250,000?" [Foshan shouli 4 jian gongkai shenqing, guangzhou 25 wan jian?], Southern Metropolitan Daily, reprinted in China Transparency (Online), 6 April 09.

[62] "Three Knotty Problems One Year After Implementation of Open Government Information—the Government Has a Headache and the Masses Are Disappointed" [Sannan nanzhu zhengfu xinxi gongkai shishi yinian zhengfu toutong minzong shiwang], Economic Observer, reprinted in China Transparency (Online), 14 March 09.

[63] Ibid.

[64] "Media Spokesperson System Takes Another Step Forward: Setting Up Zhongnanhai Media Spokesperson Feasible or Not?" [Xinwen fayanren zhidu zai xiangqian: she zhongnanhai xinwen fayanren kexing fou], Outlook Weekly, reprinted in People's Daily (Online), 8 June 09.

[65] Wang Changyong, "Facelift for China's Economic Stimulus Plan," Caijing (Online), 6 March 09.

[66] Joseph Fewsmith, "Social Order in the Wake of Economic Crisis," China Leadership Monitor, Hoover Institution, Spring 2009, Vol. 28, 8.

[67] Chen Yongrong, "Lawyer in Battle With Ministry Over Governmental Stimulus Plan," Xinhua, reprinted in China Elections and Governance (Online), 12 February 09.

[68] See, e.g., Jonathan Ansfield, "Party Elders Press for Checks on China's Stimulus Plan," New York Times (Online), 3 March 09; Chen Yongrong, "Lawyer in Battle With Ministry Over Governmental Stimulus Plan," Xinhua, reprinted in China Elections and Governance (Online), 12 February 09.

[69] Chen Yongrong, "Lawyer in Battle With Ministry Over Governmental Stimulus Plan," Xinhua, reprinted in China Elections and Governance (Online), 12 February 09.

[70] "Credibility of China's Statistics Is Crucial," South China Morning Post (Online), 6 August 09.

[71] Martin Zhou, "Change Sought To Make the GDP Figures Add Up," South China Morning Post (Online), 13 August 09. According to Xinhua, "National Bureau of Statistics (NBS) Director Li Deshui revealed in March 2005 that the cumulative gross domestic product data submitted by local governments was 3.9 percentage points higher than the National Bureau of Statistics data. The difference was nearly 2.66 trillion yuan [approximately US$389.4 billion]." "China Revises Statistics Law To Curb Data Falsification," Xinhua (Online), 27 June 09.

[72] "China Revises Statistics Law To Curb Data Falsification," Xinhua (Online), 27 June 09.

[73] Jane Cai, "Parts Greater Than the GDP Sum," South China Morning Post (Online), 4 August 09.

[74] "China Revises Statistics Law To Curb Data Falsification," Xinhua (Online), 27 June 09.

[75] Transparency International (Online), Corruption Perceptions Index 2008.

[76] "Wen: Corruption Still Serious Problem in Some Areas," China Daily (Online), 5 March 09.

[77] See, e.g., "NPC/CPPCC Meetings: 181 Bureau-Level Officials Were Investigated and Punished Last Year" [Zhongguo liangyuan: qunian chachu 181 juji gaoguan], Voice of America (Online), 10 March 09; Wu Zhong, "Dark Days for China's Whistleblowers," Asia Times (Online), 26 March 09.

[78] Wu Zhong, "Dark Days for China's Whistleblowers," Asia Times (Online), 26 March 09.

[79] "China Launches Website To Encourage Public Supervision of Official Appointment[s]," Xinhua (Online), 26 February 09.

[80] "Public Hearings: Driving Engine of Democracy in China," Xinhua (Online), 5 October 09. According to Article 42 of the PRC Law on Administrative Punishment, promulgated 17 March 96 and effective 1 October 96, a qualified party may request a public hearing regarding orders to stop production, revocation of permits or licenses, and administrative fines. In the late 1990s and in the current decade, public hearing systems have been added to a variety of other administrative, legislative, and judicial laws and regulations. Peng Zongchao et al., Public Hearing Systems in China: Transparent Policymaking and Public Governance [Tingzheng zhidu: touming juece yu gonggong zhili], (Beijing: Qinghua University Press, 2004), 3. By the end of 2004, nearly one-third of China's provinces, cities, and district courts established a public hearing system in state compensation cases. Peng Zongchao et al., Public Hearing Systems in China: Transparent Policymaking and Public Governance [Tingzheng zhidu: touming juece yu gonggong zhili], (Beijing: Qinghua University Press, 2004), 5. Authorities added public hearing systems to the PRC Law on Pricing in 1998. The State Council issued a directive in October 2008, stating that government agencies may "hold hearings for issues subject to examination and approval which concern the major public interests or the vital interests of the people." Human Rights in China (Online), "Chinese Lawyer Challenges Filtering Software Order and Requests Public Hearing," 15 June 09.

[81] Colin Knox and Zhang Qun, "Building Public Service-Oriented Government in China," 20 International Journal of Public Sector Management, No. 5, 449–464, (2007). One Chinese scholar remarked that "people are more willing to cooperate with the authorities in implementation of public policy if they can contribute to the policy-making process." "Public Hearings: Driving Engine of Democracy in China," Xinhua (Online), 5 October 09.

[82] "Public Hearings: Driving Engine of Democracy in China," Xinhua (Online), 5 October 09.

[83] Local administrative bodies often depend on fines as revenue, which can lead to disorderly fining practices. "Zhengzhou To 'Timely Formulate' Administrative Hearing Measures; Prohibit Self-Collection and Use of Fines" [Zhengzhou jiang "shishi zhiding" xingzheng tingzheng banfa jinzhi fakuan zishou zizhi], Oriental Daily, reprinted in Sina (Online), 25 November 08.

[84] Loretta Chao, "Beijing Moves To End Tradition of Petitions," Wall Street Journal (Online), 22 August 09.

[85] "Ningxia Held Its First Public Hearing for a 'Persistent Petitioner'" [Ningxia shouci wei "lao shangfanghu" zhaokai tingzhenghui], Xinhua (Online), 11 March 09.

[86] Human Rights in China (Online), "Chinese Lawyer Challenges Filtering Software Order and Requests Public Hearing," 11 June 09.

[87] "China To Improve Transparency of Public Hearings on Price Setting," Xinhua, reprinted in China Net (Online), 15 July 08.

[88] Government Price Setting Hearing Measures, issued 15 October 08, effective 1 December 08.

[89] See, e.g., "China To Improve Transparency of Public Hearings on Price Setting," Xinhua, reprinted in China Net (Online), 15 July 08; Government Price Setting Hearing Measures, issued 15 October 08, effective 1 December 08, art. 14. Article 14 provides in relevant part that for both journalists and observers, the relevant department will select attendees based on the order in which they registered for the hearing, or through a random selection process.

[90] "'Charter 08' Formal List of 16th Batch of Signatories," Charter 08 Web site (Online), 1 October 09.
[91] "Charter 08" [Ling ba xianzhang], reprinted in Independent Chinese Pen Center (Online), 9 December 08, translation by Perry Link, New York Review of Books (Online), 15 January 09.
[92] Ibid.
[93] "China Activist Formally Arrested," BBC (Online), 24 June 09.
[94] "Many Pro-Democracy Dissidents in Shenzhen Under High-Pressure Control" [Shenzhen duo wei minzhu he yiyi renshi zao gaoya kongzhi], Radio Free Asia (Online), 17 March 09.
[95] "Kyodo Focus: Debate on 'Universal Values' Simmering in China," Kyodo World Service Report (Online), 23 March 09.
[96] Shi Jiangtao, "Party Elders Urge Leaders To Take Steps Towards Political Reform," South China Morning Post (Online), 21 February 09.
[97] "Chinese Scholar Openly Calls for Amendment to Constitution, Seeks End to One-Party Rule" [Zhongguo xuezhe gongkai huyu xiuxian gaobie yidangzhi], Voice of America (Online), 9 February 09.
[98] Cary Huang, "Attack on One-Party Rule Makes Communist Party Sweat," South China Morning Post (Online), 8 August 09; Verna Yu, "Critic Leaves Beijing Red-Faced," Asia Times (Online), 2 September 09; "The Governing Party Needs To Establish Fundamental Political Ethics: A Talk by an Old Comrade on the Eve of the Sixtieth Anniversary of the Founding of the PRC" [Zhizheng dang yao jianli jiben de zhingzhi lunli: guoqing 60 zhounian qianxi yi lao tongzhi de tanhua], Boxun (Online), 31 July 09.
[99] "The Governing Party Needs To Establish Fundamental Political Ethics: A Talk by an Old Comrade on the Eve of the Sixtieth Anniversary of the Founding of the PRC" [Zhizheng dang yao jianli jiben de zhingzhi lunli: guoqing 60 zhounian qianxi yi lao tongzhi de tanhua], Boxun (Online), 31 July 09.
[100] "Hubei's Yao Lifa Is Warned Before June 4, Hong Kong Education Organization Organizes a June 4th Group" [Hubei yao lifa liusi qian zao jinggao xianggang jiaoyu tuanti chengli liusi xiaozu], Radio Free Asia (Online), 7 May 09.
[101] Chinese Human Rights Defenders (Online), "Election Expert Mr. Yao Lifa Detained at Shanghai Tangqiao Police Station" [Xuanju zhuanjia yao lifa xiansheng bei kouya zai shanghai tangqiao paichusuo], 11 July 09.
[102] "Nine Democracy Activists Taken Away by Police in Guangzhou While Hiking in the Mountains" [Guangzhou jiu minzhu renshi dengshan youwan bei jingcha daizou], Radio Free Asia (Online), 18 July 09.
[103] Chinese Human Rights Defenders (Online), "Hubei Democracy Activist Hu Junxiong Is Taken Away Again by State Security Officers" [Hubei minzhu renshi hu junxiong, zaici bei guo'an jingcha daizou], 15 March 09.
[104] Hu Junxiong has promoted democratic ideas since at least 1998. Chinese Human Rights Defenders (Online), "Hubei Democracy Activist Hu Junxiong Is Taken Away Again by State Security Officers" [Hubei minzhu renshi hu junxiong, zaici bei guo'an jingcha daizou], 15 March 09.
[105] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 105.
[106] Human Rights in China (Online), "Xie Changfa Receives Severe Sentence of 13 Years' Imprisonment for Organizing Political Party," 1 September 09; Chinese Human Rights Defenders (Online), "Defense Statement Given in First Instance Trial of Hunan Democracy Activist Xie Zhangfa on Charges of 'Subversion of State Power,'" 30 April 09.
[107] Human Rights in China (Online), "Xie Changfa Receives Severe Sentence of 13 Years' Imprisonment for Organizing Political Party," 1 September 09.
[108] Chinese Human Rights Defenders (Online), "June 4th Leader Zhou Yongjun's Illegal Secret Detention Exceeds Limit and Continues" [Liusi lingxiu zhou yongjun bei mimi feifa chaoqi guanya yixu], 28 April 09.
[109] "Lawyers Appeal Over Dissident," Radio Free Asia (Online), 21 September 09; "[19]89 Student Leader Zhou Yongjun Arrested for Financial Fraud" [Bajiu xueyun lingxiu zhou yongjun yi jingji zhapianzui beibu], Radio Free Asia (Online), 12 May 09.
[110] "Lawyers Appeal Over Dissident," Radio Free Asia (Online), 21 September 09.
[111] Chinese Human Rights Defenders (Online), "June 4th Leader Zhou Yongjun's Illegal Secret Detention Exceeds Limit and Continues" [Liusi lingxiu zhou yongjun bei mimi feifa chaoqi guanya yixu], 28 April 09.
[112] "[19]89 Student Leader Zhou Yongjun Arrested for Financial Fraud" [Bajiu xueyun lingxiu zhou yongjun yi jingji zhapianzui beibu], Radio Free Asia (Online), 12 May 09; "[19]89 Democracy Movement Student Leader Zhou Yongjun Held by Authorities for More Than Seven Months" [Bajiu minyun lingxiu zhou yongjun bei dangju guanya chaoguo qigeyue], Boxun (Online), 29 April 09.
[113] Tania Branigan, "Tiananmen Square Leader Arrested, Family Says," Guardian (Online), 13 May 09; Michael Wines, "China Holds an Ex-Leader of '89 Rallies, Family Says," New York Times (Online), 14 May 09.
[114] "Lawyers Appeal Over Dissident," Radio Free Asia (Online), 21 September 09.

Notes to Section III—Commercial Rule of Law

[1] A complete and up-to-date compilation of information on China's participation in the World Trade Organization [hereinafter WTO], including principal accession documents (Working Party report, protocol of accession, General Council decision), schedules, trade policy reviews and dispute case documents can be found at the WTO Web site at *www.wto.org*.
[2] CECC, 2008 Annual Report, 31 October 08, 160–162.
[3] Keith Bradsher, "Despite Trade Rulings, Beijing Gains From Delay," New York Times (Online), 30 August 09.

[4] World Bank (Online), The Doing Business Project, "Doing Business: Measuring Business Regulations."
[5] Ibid.
[6] He Xin, Foundation for Law, Justice and Society (Online), "The Enforcement of Commercial Judgments in China," 2008; He Xin, "Formal Contract Enforcement and Economic Development in Urban and Rural China," Paper prepared for New York University Conference on Law, Commerce, and Development, 11–12 April 08; Steve Dickinson, "Enforcing Contracts in China. Way, Way Better Than You Think," China Law Blog (Online), 13 July 09. ("Chinese companies have an unfortunate tendency to ignore contract terms in dealing with foreigners. They do this not so much because they believe they can prevail in any eventual lawsuit, but rather, because they assume [too often rightfully] that the foreigner will not sue. This leads them to believe they can violate contract terms with little risk. . . . Many contracts entered into by foreigners are simply unenforceable in China. A typical unenforceable contract is not written in Chinese, not subject to Chinese law and provides for enforcement outside of China. Such contracts are truly usually not worth the paper on which they are written, but this is not due to a defect in China's legal system. . . . Many contracts are too vague to allow for effective action by the courts. The Chinese courts are good at enforcing simple, clear contracts where the standards for default are objective and where the penalty requires little analysis. The Chinese courts are not good at making a contract for the parties, as is common in the U.S. and English legal systems. It is therefore essential to use contracts in a way that will produce a good result in court. . . . Given the other obstacles and difficulties the Chinese system poses for foreign investors, it is really a big mistake not to take advantage of the Chinese court system for enforcement of contracts.")
[7] Ibid.
[8] Supreme People's Court, Interpretation Related to Questions Arising in Connection With Implementation of the PRC Contract Law [Zuigao renmin fayuan guanyu shiyong "Zhonghua renmin gongheguo hetongfa" ruogan wenti de jieshi], issued 9 February 09, effective 13 May 09, arts. 26, 29; Hans-Günther Herrmann and Tian Tian, "Supreme Court Interpretation Brings Major Changes to China's Contract Law," Paul Weiss China Update (Online), 26 June 09.
[9] Dan Harris, "China Sex, Mistresses, and Improper Payments, and What They Mean for Your China Business Litigation," China Law Blog (Online), 31 May 09. ("Chinese courts tend to give large account to what is 'fair,' not just to what the law says. This means that if a Chinese company is late on a contract because its own supplier was late in delivering it a necessary component part, the Chinese court may very well excuse the delay. This means that if the price of a necessary component part jumps precipitously, a Chinese court might very well excuse the Chinese supplier for substituting in a cheaper part. Many times, Westerners ascribe Chinese court rulings to corruption, when they very well might have been due to equity. If you have a dispute that may be heading to a Chinese court or to arbitration before a Chinese arbitration, think long and hard about the equities involved, not just the law.")
[10] Supreme People's Court, Interpretation Related to Questions Arising in Connection With Implementation of the PRC Contract Law [Zuigao renmin fayuan guanyu shiyong "Zhonghua renmin gongheguo hetongfa" ruogan wenti de jieshi], issued 9 February 09, effective 13 May 09.
[11] "No Business Without Contracts," China Law and Practice (Online), June 2009.
[12] PRC Contract Law, issued 15 March 99, effective 1 October 99, art. 10.
[13] Supreme People's Court, Interpretation Related to Questions Arising in Connection With Implementation of the PRC Contract Law [Zuigao renmin fayuan guanyu shiyong "Zhonghua renmin gongheguo hetongfa" ruogan wenti de jieshi], issued 9 February 09, effective 13 May 09, art. 2.
[14] PRC Contract Law, enacted 15 March 99, effective 1 October 99.
[15] Supreme People's Court, Interpretation Related to Questions Arising in Connection With Implementation of the PRC Contract Law [Zuigao renmin fayuan guanyu shiyong "Zhonghua renmin gongheguo hetongfa" ruogan wenti de jieshi], issued 9 February 09, effective 13 May 09, art. 6.
[16] Supreme People's Court (Online), Several Regulations Regarding Handling of the Searchable Database of Parties Subject to Enforcement Orders of Courts Nationwide [Zuigao renmin fayuan guanyu quanguo fayuan bei zhixing ren xinxi chaxun pingtai xinxi yiyi chuli de ruogan guiding], effective 30 March 09; Supreme People's Court (Online), Supreme People's Court's Declaration Regarding the Use of Nationwide Searchable Database of Parties Subject to Enforcement Orders of Courts [Zuigao renmin fayuan guanyu quanguo fayuan bei zhixing ren shiyong xinxi chaxun shiyong shenming], 30 March 09.
[17] "Nowhere To Hide for Judgment Debtors," China Law and Practice (Online), July/August 2009.
[18] Xie Chuanjiao, "Court Launches Website Showing Who Hasn't Paid," China Daily (Online), 31 March 09. Descriptions of the size of the database vary. See, e.g., Ye Doudou, "Supreme People's Court Launches Judgment Debtor Searchable Database System" [Zuigaofa kaitong "bei zhixing ren xinxi chaxun" xitong], Caijing (Online), 30 March 09.
[19] Xie Chuanjiao, "Court Launches Website Showing Who Hasn't Paid," China Daily (Online), 31 March 09.
[20] Commission staff found that some records contained fields that were incompletely or incorrectly filled out (e.g., registration numbers containing fewer than the nine-digit minimum, thus rendering them unsearchable by that field; incomplete names of organizations, such as records showing the name of the debtor simply as "Beijing" or "China"). These problems do not necessarily reflect deficiencies in the implementation of the new database, per se. They might instead reflect a good faith effort to post online all hard records, including those for which information on file is incomplete.
[21] "Forum shopping" refers to situations in which the law permits litigants to pursue a claim in more than one court or other adjudicatory forum, and litigants base their choice of forum in whole or in part on the different expected probabilities of prevailing in particular forums.

[22] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, arts. 140–231.
[23] Ibid., arts. 158–169.
[24] Ibid., arts. 140–150; Steve Dickinson, "Criminal Law and Business in China—A Strong Caution," China Law Blog (Online), 22 March 06.
[25] Ibid., arts. 192–200, 221–231.
[26] "Economic Crime: People, Culture & Controls," The 4th Biennial Global Economic Crime Survey, Industrial Manufacturing Industry Supplement, Pricewaterhouse Coopers (Online), 2008, 4; Qian Yanfeng, "Economic Crime on Rise, Firms Warned," China Daily (Online), 20 February 09; Steve Dickinson, "Criminal Law and Business in China—A Strong Caution," China Law Blog (Online), 22 March 06.
[27] Steve Dickinson, "Criminal Law and Business in China—A Strong Caution," China Law Blog (Online), 22 March 06.
[28] Ibid.
[29] Andrew Batson and Lyndal McFarland, "China Rio Tinto Case Risks Sending a Chill," Wall Street Journal (Online), 13 July 09; David Barbosa, "China's Detentions of Executives Rattle Investors," New York Times (Online), 12 July 09; Steve Dickinson, "China's Rio Tinto Arrests. Everyone Just Move Along . . .," China Law Blog (Online), 14 July 09.
[30] See, e.g., M.P. McQueen, "The Prisoners of Drywall," Wall Street Journal (Online), 7 August 09; Lisa Stark and Kate Barrett, "Contaminant Found in Heparin," ABC News (Online), 5 March 08.
[31] For background, see also CECC, 2008 Annual Report, 31 October 08, 157–158.
[32] CECC, 2008 Annual Report, 31 October 08, 157-58.
[33] "China Court Accepts First Milk Scandal Lawsuit: State Media," Agence France-Presse, reprinted in AsiaOne (Online), 25 March 09.
[34] "Authorities Pressure Lawyers, Prevent Courts From Handling Milk Cases," Congressional-Executive Commission on China (Online), 26 November 08.
[35] PRC General Principles of Civil Law, enacted 12 April 86, effective 1 January 87.
[36] PRC Product Quality Law, enacted 22 February 93, effective 1 September 93, amended 8 July 00, effective 1 September 00.
[37] PRC Consumer Rights Protection Law, enacted 31 October 93, effective 1 January 94.
[38] PRC Food Safety Law, enacted 28 February 09, effective 1 June 09.
[39] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, arts. 140–150.
[40] PRC Agricultural Product Quality Safety Law, enacted 29 April 06, effective 1 November 06.
[41] State Council Special Provisions on Strengthening Supervision and Management of Food Safety [Guowuyuan guanyu jiaqiang shipin deng chanpin anquan jiandu guanli de tebie guiding], issued and effective 26 July 07.
[42] "China Issues Emergency Plan Against Major Food Safety Accidents," Xinhua, reprinted in People's Daily (Online), 27 February 06.
[43] PRC Food Safety Law, enacted 28 February 09, effective 1 June 09.
[44] PRC Food Hygiene Law, adopted and effective 30 October 1995. Superseded by PRC Food Safety Law, adopted 28 February 09, effective 1 June 09.
[45] PRC Food Safety Law, enacted 28 February 09, effective 1 June 09, art. 4.
[46] Ibid., arts. 93, 98.
[47] Ibid., arts. 81, 84–91, 97.
[48] Ibid., arts. 84–86, 94.
[49] Ibid., art. 96.
[50] Ibid., ch. 2.
[51] Ibid., ch. 3.
[52] Ibid., chs. 2, 4, 5.
[53] Ibid., art. 60.
[54] PRC Food Safety Law, enacted 28 February 09, effective 1 June 09, arts. 53, 72, 85. Consistent with similar provisions in the State Administration of Quality Supervision, Inspection and Quarantine Administrative Regulations on Food Recalls, issued August 2007, and in the State Administration of Quality Supervision, Inspection and Quarantine Administrative Regulations on Toy Recalls, issued August 2007.
[55] PRC Food Safety Law, enacted 28 February 09, effective 1 June 09, ch. 7; Steven M. Dickinson, "Food Fumble: China Can't Regulate Away Its Safety Problems," Wall Street Journal (Online), 3 March 09.
[56] Implementing Regulations for the PRC Food Safety Law [Zhonghua renmin gongheguo shipin anquan fa shishi tiaoli], issued and effective 25 July 09, arts. 4–12.
[57] Steven M. Dickinson, "Food Fumble: China Can't Regulate Away Its Safety Problems," Wall Street Journal (Online), 3 March 09.
[58] See, e.g., M.P. McQueen, "The Prisoners of Drywall," Wall Street Journal (Online), 7 August 09; Lisa Stark and Kate Barrett, "Contaminant Found in Heparin," ABC News (Online), 5 March 08.
[59] Hague Conference on Private International Law (Online), Convention of 15 November 1965 on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters, 15 November 65.
[60] Patricia Blazey and Peter Gillies, "Recognition and Enforcement of Foreign Judgments in China," International Journal of Private Law, Vol. 1, No. 3/4, 333–342 (2008); Ariel Ye, "Enforcement of Foreign Arbitral Awards and Foreign Judgments in China," Defense Counsel Journal (Online), 1 July 07; Dan Harris, "Suing Chinese Drywall Manufacturers. Why All the Bother?" China Law Blog (Online), 24 July 09; Dan Harris, "Chinese Drywall Cases. Show Me the

Money!" China Law Blog (Online), 21 April 09. ("U.S. judgments are of virtually no value in China. Put simply, Chinese courts simply do not recognize them for anything. They cannot be converted to a Chinese judgment and they are not even evidence of anything.")

[61] UN Commission on International Trade Law (UNCITRAL) (Online), UN Conference on International Commercial Arbitration, Convention on the Recognition and Enforcement of Foreign Arbitral Awards, issued 10 June 58; Dan Harris, "Enforcing Foreign Judgments in China—Let's Sue Twice," China Law Blog (Online), 25 March 06.

[62] Dune Lawrence and Luo Jun, "China Says 432 Infants Have Kidney Stones From Sanlu Formula," Bloomberg (Online), 13 September 08. The PRC General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) released in September 2008 a set of draft regulations for establishing a nationwide product recall system, AQSIQ Regulations for Management of Defective Product Recall: Comment Draft [Quexian chanpin zhaohui guanli tiaoli (zhengqiu yijian gao)], 18 September 08. This draft regulation is based on the regulations concerning the recall of defective automobiles jointly issued in 2004 by AQSIQ, the National Development and Reform Commission, Ministry of Commerce, and General Customs Administration, Regulations for Recall of Defective Automobiles [Quexian qiche chanpin zhaohui guanli guiding], issued 12 March 04, effective 1 October 04.

[63] Dan Harris, "Defective Product Recalls in China. What's That?" China Law Blog (Online), 16 June 09.

[64] Steven M. Dickinson, "Food Fumble: China Can't Regulate Away Its Safety Problems," Wall Street Journal (Online), 3 March 09; Dan Harris, "Defective Product Recalls In China. What's That?" China Law Blog (Online), 16 June 09.

[65] "Communicating Changes," China Law and Practice (Online), May 2009.

[66] Ministry of Industry and Information Technology, Measures for the Administration of Permission To Provide Telecommunications Services [Dianxin yewu jingying xuke guanli banfa], issued 1 March 09, effective 10 April 09.

[67] Ibid., art. 27.

[68] Ibid., art. 27, para. (4).

[69] "Communicating Changes," China Law and Practice (Online), May 2009.

[70] Ibid.

[71] State Intellectual Property Office (Online), "Grants for Three Kinds of Patents Received From Home and Abroad (year)—2009," last visited 2 August 09; State Intellectual Property Office (Online), "Grants for Three Kinds of Patents Received From Home and Abroad (year)—2008," last visited 2 August 09; State Intellectual Property Office (Online), "Applications for Three Kinds of Patents Received From Home and Abroad (year)—2008," last visited 2 August 09; Joff Wild, "Major Breakthrough for Chinese Companies in the Patenting Stakes," IAM (Intellectual Asset Management) Magazine Blog (Online), 22 July 09.

[72] Ibid.

[73] Ibid.

[74] "Not Enough," China Daily, reprinted in State Intellectual Property Office (Online), 18 February 08; State Intellectual Property Office (Online), "Grants for Three Kinds of Patents Received From Home and Abroad (year)—2009," last visited 2 August 09; State Intellectual Property Office (Online), "Grants for Three Kinds of Patents Received From Home and Abroad (year)—2008," last visited 2 August 09; State Intellectual Property Office (Online), "Applications for Three Kinds of Patents Received From Home and Abroad (year)—2008," last visited 2 August 09; Joff Wild, "Major Breakthrough for Chinese Companies in the Patenting Stakes," IAM (Intellectual Asset Management) Magazine Blog (Online), 22 July 09; "The Tasks of Tian," Managing Intellectual Property, February 2009, reprinted in China Law and Practice (Online), April 2009.

[75] "The Tasks of Tian," Managing Intellectual Property, February 2009, reprinted in China Law and Practice (Online), April 2009.

[76] "China To Build 100 IP Assistance Centers," Intellectual Property Protection in China (Online), 9 February 09.

[77] Ibid.

[78] "The Tasks of Tian," Managing Intellectual Property, February 2009, reprinted in China Law and Practice (Online), April 2009.

[79] PRC Patent Law, enacted 12 March 84, amended 4 September 92, 25 August 00, 27 December 08, effective 1 October 09.

[80] State Council, Outline of the National Intellectual Property Strategy [Guojia zhishi chanquan zhanlue gangyao], 5 June 08. Besides the amendments to the PRC Patent Law, legislative and regulatory developments related to the national strategy during the Commission's 2009 reporting year include: Supreme People's Court, Opinion on Several Issues Concerning the Thorough Implementation of the State Intellectual Property Strategy [Zuigao renmin fayuan guanyu guanche shishi guojia zhishi chanquan zhanlue ruogan wenti de yijian], 30 March 09 (focusing mainly on civil and criminal enforcement of intellectual property rights before the courts).

[81] State Council, Outline of the National Intellectual Property Strategy [Guojia zhishi chanquan zhanlue gangyao], 5 June 08, English translation reprinted in State Intellectual Property Office (Online), 5 June 08, para. 6.

[82] "The Tasks of Tian," Managing Intellectual Property, February 2009, reprinted in China Law and Practice (Online), April 2009.

[83] State Intellectual Property Office (Online), "Grants for Three Kinds of Patents Received From Home and Abroad (year)—2009," last visited 2 August 09; State Intellectual Property Office (Online), "Grants for Three Kinds of Patents Received From Home and Abroad (year)—2008," last visited 2 August 09; State Intellectual Property Office (Online), "Applications for Three Kinds of Patents Received From Home and Abroad (year)—2008," last visited 2 August 09.

[84] "The Tasks of Tian," Managing Intellectual Property, February 2009, reprinted in China Law and Practice (Online), April 2009.
[85] Ibid.
[86] Ibid., describing remarks made by Zhang Tianan, a practicing Chinese patent attorney, former editor-in-chief of China Patents and Trademarks, and currently vice president of CCPIT Patent and Trademark Law Office.
[87] Joff Wild, "Major Breakthrough for Chinese Companies in the Patenting Stakes," IAM (Intellectual Asset Management) Magazine Blog (Online), 22 July 09; "Not Enough," China Daily, reprinted in State Intellectual Property Office (Online), 18 February 08.
[88] See, e.g., Lisa Haile, "Update on Patent Law Revisions in China: New Amendments Predicted To Affect Intellectual Property Protection," Genetic Engineering & Biotechnology News, Vol. 29, No. 1, 1 January 09. ("What is more disconcerting is the proposal to grant a compulsory license, upon request, for the use of a patented invention if the patent owner, 'without any legitimate reason,' has not 'adequately practiced the patented invention for three years after issuance of the patent. . . .' This section of the compulsory license amendment may be especially prejudicial for the biotechnology industry. Consider the typical situation where a technology is under development and a patent application is filed in the USA, followed by a Patent Cooperation Treaty (PCT) application, and then later filed in China. In many instances, the claims that are issued or granted in a patent (the patented invention) are not actually practiced at the time of the patent grant or even within three years of the patent grant. Should companies consider setting up a small clinical trial in China as soon as the Chinese patent is granted? Would that qualify as adequately practicing the claimed invention? The ambiguity in the language of this proposed amendment, combined with the potential impact of patentees losing rights in China for inventive contributions as determined by the SIPO makes this section particularly disturbing for life sciences companies seeking patent protection in China."); Ronald A. Cass, "Patent Reform With Chinese Characteristics," Wall Street Journal (Online), 10 February 09.
[89] PRC Patent Law, enacted 12 March 1984, amended 4 September 92, 25 August 00, 27 December 08, effective 1 October 09, arts. 48–50.
[90] Ronald A. Cass, "Patent Reform With Chinese Characteristics," Wall Street Journal (Online), 10 February 09.
[91] Ibid.
[92] Lisa Haile, "Update on Patent Law Revisions in China: New Amendments Predicted To Affect Intellectual Property Protection," Genetic Engineering & Biotechnology News, Vol. 29, No. 1, 1 January 09.
[93] Ronald A. Cass, "Patent Reform With Chinese Characteristics," Wall Street Journal (Online), 10 February 09.
[94] World Trade Organization (Online), DS362, China—Measures Affecting the Protection and Enforcement of Intellectual Property Rights, Constitution of the Panel Established at the Request of the United States, Note by the Secretariat, WTO Doc. No. 07–5564, 13 December 07; United States Trade Representative (USTR) (Online), "WTO Case Challenging Weaknesses in China's Legal Regime for Protection and Enforcement of Copyrights and Trademarks," Trade Delivers, April 2007; USTR (Online), "United States Files WTO Cases Against China Over Deficiencies in China's Intellectual Property Rights Laws and Market Access Barriers to Copyright-Based Industries," 9 April 07; World Trade Organization (Online), DS362, China—Measures Affecting the Protection and Enforcement of Intellectual Property Rights, Communication From the Chairman of the Panel, WTO Doc. No. 08–3478, 18 July 08.
[95] World Trade Organization (Online), DS362, China—Measures Affecting the Protection and Enforcement of Intellectual Property Rights, Report of the Panel, WT/DS362/R, 26 January 09. See also "WTO-China IPR Case: A Mixed Result," China Law and Practice (Online), March 2009.
[96] PRC Copyright Law, enacted 7 September 90, amended 27 October 01, art. 4(1)—"works the publication or distribution of which is prohibited by law shall not be protected by this Law."
[97] World Trade Organization (Online), DS362, China—Measures Affecting the Protection and Enforcement of Intellectual Property Rights, Report of the Panel, WT/DS362/R, 26 January 09, paras. 7.72–7.82. China defended its denial of copyright protection for prohibited works under Article 17 of the Berne Convention, which is incorporated by reference into TRIPS and which allows a government to "permit, to control, or to prohibit . . . the circulation, presentation, or exhibition of any work . . . in regard to which the competent authority may find it necessary to exercise that right." But the WTO panel disagreed that Article 17 authorizes the denial of all copyright protection in any work. (WTO Panel Report, China—IPR, para. 7.127). It found that, while a government's rights under Article 17 may interfere with the exercise of certain rights by the copyright owner, censorship cannot legally eliminate those rights entirely for a particular work. (WTO Panel Report, China—IPR, para. 7.132.) See "WTO-China IPR Case: A Mixed Result," China Law and Practice (Online), March 2009.
[98] State Council, Outline of the National Intellectual Property Strategy [Guojia zhishi chanquan zhanlue gangyao], 5 June 08, para. 8.
[99] Steve Dickinson, "The WTO, China's Media, Copyrights and Other IP. It's a Control Thing," China Law Blog (Online), 9 February 09; Tina Wang, "U.S. Talks Up WTO Piracy Ruling, But It's All Wind," Forbes (Online), 27 January 09.
[100] World Trade Organization, DS363, China—Measures Affecting Trading Rights and Distribution Services For Certain Publications and Audiovisual Entertainment Products, Report of the Panel, WT/DS363/R, 12 August 09.
[101] World Trade Organization, DS363, China—Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products, Request for Consultations by the United States, WT/DS363/1, WTO Doc. No. 07–1499, 16 April 07.
[102] National Development and Reform Commission and Ministry of Commerce, Catalogue for the Guidance of Foreign Investment Industries [Wai shang touzi chanye zhidao mulu], Cata-

logue of Industries in Which Foreign Investment Is Prohibited [Jinzhi waishang touzi chansheng mulu], issued 31 October 07, effective 11 December 07, arts. 10(2) and 10(3).

[103] Regulations on the Administration of Publishing [Chuban guanli tiaoli], issued 12 December 01, effective 1 February 02, arts. 41–42; Regulations Regarding Management of Films [Dianying guanli tiaoli], issued 25 December 01, effective 1 February 02, art. 30.

[104] Ministry of Commerce and Ministry of Culture, Measures for the Management of Chinese-Foreign Joint Ventures for the Distribution of Audiovisual Products [Zhong wai hezuo yinxiang zhipin fenxiao qiye guanli banfa], issued 18 December 03, effective 1 January 04, art. 8(4).

[105] Ministry of Culture, State Administration of Radio, Film and Television, General Administration for Press and Publication, National Development and Reform Commission, and Ministry of Commerce, Circular on Several Opinions Concerning the Introduction of Foreign Capital Into the Cultural Sector [Guanyu wenhua lingyu yinjin waizi de ruogan yijian de tongzhi], issued 6 July 05, art. 4.

[106] "A Clearer Road for Insurers," China Law and Practice (Online), April 2009; "A Long Wait for a Quick Insurance Fix," China Law and Practice (Online), April 2009.

[107] PRC Insurance Law, enacted 30 June 95, amended 28 October 02, amended 28 February 09, effective 1 October 09, arts. 22–24.

[108] Ibid., art. 16, paras. 1–2.

[109] Ibid., art. 16, paras. 2–3.

[110] Ibid., art. 16, para. 6.

[111] Estoppel prevents a party from adopting a position, action, or attitude inconsistent with an earlier position if the new position would result in an injury to another person.

[112] See, e.g., "A Long Wait for a Quick Insurance Fix," China Law and Practice (Online), April 2009. ("In the past, some insurance companies would issue a policy to bring in revenue, despite knowing that the insured person had a disease such as cancer, says (Luming) Chen (of Jones Day, Shanghai), for example. 'They still issued the policy and then refused to pay out on the basis that cancer is not insurable.' The new clause prohibits the insurer from terminating the insurance contract if it 'was aware that the proposer failed to provide truthful information' when entering into the contract.").

[113] PRC Insurance Law, enacted 30 June 95, amended 28 October 02, amended 28 February 09, effective 1 October 09, art. 17.

[114] Ibid.

[115] For an overview of questions raised by the law as amended, see also "A Long Wait for a Quick Insurance Fix," China Law and Practice (Online), April 2009.

[116] PRC Insurance Law, enacted 30 June 95, amended 28 October 02, amended 28 February 09, effective 1 October 09, art. 8.

[117] Ibid., art. 95(3). ("An insurer may not concurrently engage in personal insurance business and property insurance business. However, an insurance company engaging in property insurance business may, with the approval of the State Council's insurance regulatory authority, engage in short-term health insurance business and accidental injury insurance business.")

[118] Ibid., arts. 81–83, 85.

[119] Ibid., arts. 85–88.

[120] State Administration for Industry and Commerce (Online), Publication of Statistical Analysis: 2009 First Quarter Report of Basic Situation in the Enforcement of Competition Law [Tongji fenxi fabu: 2009 niandu di yijidu jingzheng zhifa jiben qingkuang], 13 May 09; State Administration for Industry and Commerce (Online), Publication of Statistical Analysis: 2009 First Quarter Report on the Development of National Market Players [Tongji fenxi fabu: 2009 nian yijidu quanguo shichang zhuti fazhan baogao], 11 May 09.

[121] "The First Steps Toward Economic Analysis of the Anti-Monopoly Law," China Law and Practice (Online), March 2009; see also "Competition Enforcement Under Old Laws Is Declining," China Law and Practice (Online), June 2009.

[122] Qin Xudong, "Court Accepts Anti-Monopoly Case Against China Mobile" [Fayuan shouli zhongguo yidong beisu longduan an], Caijing (Online), 30 March 09. For the legal basis of plaintiff's claims, see PRC Antimonopoly Law, enacted 30 August 07, effective 1 August 08, especially art. 17.

[123] "China's First Domestic Anti-Monopoly Case Filed: China Netcom Becomes First Defendant" [Guonei shouqi fanlongduan su gong anli an: wangtong cheng di yi bei gao], ChinaNews, reprinted in Xinhua (Online), 17 September 08.

[124] Qin Xudong, "Baidu Sued for Anti-Monopoly in Court of First Instance" [Baidu bei su longduan an yi shen kaiting], Caijing (Online), 22 April 09; "Baidu Sued for Monopoly," Caijing (Online), 23 April 09. In a case filed with Beijing No. 1 Intermediate People's Court by Tangshan Renren Information Service Company, Baidu allegedly had "monopolized the Chinese search engine market" and had "blacklisted" a subsidiary after it altered advertising arrangements. Wang Huazhong, "Baidu Under Attack Over 'Monopoly,'" China Daily (Online), 23 April 09; Mao Lijun, "Baidu in Dock Over Alleged Blacklisting," China Daily (Online), 1 June 09.

[125] "China Mobile Sued on Anti-Monopoly Grounds," China Law and Practice (Online), April 2009. For the legal basis of plaintiffs' claims, see PRC Antimonopoly Law, enacted 30 August 07, effective 1 August 08, especially art. 17.

[126] Ibid.; "Baidu Is Latest To Be Sued Under Anti-Monopoly Law," China Law and Practice (Online), May 2009; Zhan Hao, "The Role of SAIC in Enforcement of the Anti-Monopoly Law," China Law and Practice (Online), February 2009.

[127] Qin Xudong, "State Administration of Industry and Commerce Issues Antimonopoly Law Procedural Provisions" [Gongshang zongju chu tai fan longduan zhifa chengxu guiding], Caijing (Online), 8 June 09.

[128] State Administration for Industry and Commerce, Procedural Rules Regarding Prohibition of Abuse of Administrative Power for the Purpose of Eliminating or Restricting Competition [Gongshang xingzheng guanli jiguan zhizhi jian yong xingzheng quanli paichu, xianzhi jingzheng xingwei chengxu guiding], issued 5 June 09, effective 1 July 09.

[129] State Administration for Industry and Commerce, Procedural Rules Regarding Investigation and Handling of Cases Relating to Monopoly Agreement and Abuse of Dominant Market Position [Gong shang xingzheng guanli jiguan chachu longduan xieyi, jianyong shichang zhipei diwei anjian chengxu guiding], issued 5 June 09, effective 1 July 09.

[130] For a comprehensive overview of the new procedural provisions, see, e.g., Peter Wang, Yizhe Zhang, H. Stephen Harris, Jr., and Mark Allen Cohen, "Chinese Antitrust Authority Publishes New Procedural Rules for Non-Merger Investigations," Jones Day (Online), 11 June 09.

[131] State Administration for Industry and Commerce, Procedural Provisions Regarding Investigation and Handling of Cases Relating to Monopoly Agreement and Abuse of Dominant Market Position [Gong shang xingzheng guanli jiguan chachu longduan xieyi, jianyong shichang zhipei diwei anjian chengxu quiding], issued 5 June 09, effective 1 July 09, art. 5.

[132] Ibid.

[133] For a comprehensive overview of the new procedural rules, see, e.g., Peter Wang, Yizhe Zhang, H. Stephen Harris, Jr. and Mark Allen Cohen, "Chinese Antitrust Authority Publishes New Procedural Rules for Non-Merger Investigations," Jones Day (Online), 11 June 09.

[134] State Council Antimonopoly Commission, Guidelines for Defining the Relevant Market [Guowuyuan fanlongduan weiyuanhui guanyu xiangguan shichang jieding de zhinan], issued 24 May 09.

[135] Martyn Huckerby and Alex Yang, "Chinese Competition Regulators Focus on Cartels and Sharpen Their Investigatory Tools," Mallesons Stephen Jaques (Online), 14 July 09.

[136] Bradley S. Lui and Tej Srimushnam, "Emerging Trends in Merger Reviews Under China's Anti-Monopoly Law," Morrison and Foerster (Online), June 09.

[137] Ministry of Commerce (Online), "Ministry of Commerce Reaches a Decision in Its Antimonopoly Review of Coca-Cola Inc.'s Proposed Purchase of China's Huiyuan, Inc." [Shangwubu jiu kekou kele gongsi shougou zhongguo huiyuan gongsi an fan longduan shen cha zuochu caijue], 18 March 09.

[138] Ministry of Commerce (Online), "Ministry of Commerce 2008 Public Announcement Number 95" [Zhonghua renmin gongheguo shangwubu gonggao 2008 nian di 95 hao], 18 November 08.

[139] Ministry of Commerce (Online), "Ministry of Commerce 2009 Public Announcement Number 28, MOFCOM Reaches a Decision of Limited Approval in Its Antimonopoly Review of Mitsubishi Rayon/Lucite Proposed Merger" [Shangwubu gonggao 2009 nian di 28 hao, shangwubu guanyu fu jia xianzhixing tiaojian pizhun riben sanling liyang gongsi shougou lu cai te guoji gongsi shencha jueding de gong gao], 24 April 09.

[140] Bradley S. Lui and Tej Srimushnam, "Emerging Trends in Merger Reviews Under China's Anti-Monopoly Law," Morrison and Foerster (Online), 9 June 09.

Notes to Section III—Access to Justice

[1] The terms "human rights lawyers" and "rights defense" (*weiquan*) lawyers are used interchangeably. See China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement Submitted by Bob (Xiqiu) Fu, President of ChinaAid, attaching Zhang Kai & Li Chunfu, "Joint Declaration of Rights Defense Attorneys." The de-licensed lawyers include: Jiang Tianyong, Li Heping, Li Xiongbing, Li Chunfu, Wang Yajun, Guo Shaofei, Cheng Hai, Tang Jitian, Xie Yanyi, Zhang Xingshui, Yang Huiwen, Tong Chaoping, Liu Guitao, Wen Haibo, Liu Wei, Zhang Lihui, Zhang Chengmao, Wei Liangyue, Sun Wenbing, Li Shihui, and Wang Yonghang. See China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement Submitted by Bob (Xiqiu) Fu, President of ChinaAid; Chinese Human Rights Defenders (Online), "Chinese Human Rights Lawyers Face Oppression, Many Still Unable To Work" [Zhongguo renquan lushi zao daya dadu reng buneng zhiye], 1 July 09; Chinese Human Rights Defenders (Online), "Licenses of 18 Rights Lawyers Still Not Renewed a Month After Deadline," 2 July 09; Ariana Eunjung Cha, "Human Rights Lawyers 'Disbarred' by Paperwork: Chinese Officials Decline To Renew Annual Licenses," Washington Post (Online), 26 June 09; Chinese Human Rights Defenders (Online), "China Human Rights Briefing August 17–23, 2009," 26 August 09; Chinese Human Rights Defenders (Online), "Debarred Lawyer Tortured and Arrested in Northeastern China," 27 August 09.

[2] Jerome A. Cohen, "The Struggle for Autonomy of Beijing's Public Interest Lawyers," China Rights Forum, No. 1, 2009, 12.

[3] Andrew Jacobs, "Hepatitis Group Is Harassed in China," New York Times (Online), 31 July 09; Barbara Demick, "Beijing Frees Legal Activist Xu Zhiyong," Los Angeles Times (Online), 24 August 09.

[4] Li Huizi, "Fewer Disputed Cases Between Government, People Reveals Lack of Confidence in Courts," Xinhua (Online), 4 August 09.

[5] Yu Jianrong, interviewed by Wu Huaiting, "Local Abuses Main Reason for Mass Incidents," Global Times (Online), 1 September 09. Yu Jianrong states in the interview: "The current petition system is a political participation and rights compensation system with strong Chinese characteristics. It worked at one time, but has too many flaws to fit in the current market economy. The failure of the system damaged the credibility of the central government and stimulates more and more mass incidents. Gradually, the people have lost confidence in or even abandon the judicial and petition system and so resort to mass incidents."

[6] See, e.g., Yu Jianrong, "Anger in the Streets," Caijing (Online), 7 July 09; Yu Jianrong, interviewed by Wu Huaiting, "Local Abuses Main Reason for Mass Incidents," Global Times (Online), 1 September 09.

[7] Yu Jianrong, "Anger in the Streets," Caijing (Online), 7 July 09. In this article, Yu quotes an apparently popular expression saying, "People deeply believe in the governing logic of 'small noises bring small solutions, big noises bring big solutions, and no noise brings no solution.'" See also Yu Jianrong, interviewed by Wu Huaiting, "Local Abuses Main Reason for Mass Incidents," Global Times (Online), 1 September 09.

[8] Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, art. 8. See also International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 9; CECC, 2008 Annual Report, 31 October 08, 163.

[9] International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 2. China has signed, but has not yet ratified, the ICCPR. As in previous years, the Chinese government this reporting year continued to reiterate its commitment to ratifying the ICCPR, which China signed in 1998. In February 2009, during the UN Human Rights Council's Universal Periodic Review of China's human rights record, the Chinese government supported recommendations made by Member States that China ratify the ICCPR. At the time, Chinese officials also said China was in the process of amending domestic laws, including the criminal procedure law and laws relating to reeducation through labor, to make them compatible with the ICCPR. UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, paras. 63, 114 (1). Moreover, in the 2009–2010 National Human Rights Action Plan (HRAP) issued by the Chinese government in April 2009, officials stated that the ICCPR was one of the "fundamental principles" on which the plan was framed, and that the government "will continue legislative, judicial and administrative reforms to make domestic laws better linked with this Covenant, and prepare the ground for approval of the ICCPR." State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, introduction, sec. V(1).

[10] CECC, 2008 Annual Report, 31 October 08, 163.

[11] "June Fourth" refers to the violent suppression of the 1989 Tiananmen protests on June 3–4.

[12] Human Rights in China (Online), "Chinese Rights Defense Lawyers Under All-Out Attack by the Authorities," 4 June 09. This quote is from an attached statement by a group of rights defense lawyers, translated by Human Rights in China, titled "On the Eve of June Fourth, Chinese Rights Defense Lawyers Face Full-Scale Repression: Nearly 20 Lawyers Will Be Unable To Practice."

[13] See, e.g., Human Rights in China (Online), "Chinese Rights Defense Lawyers Under All-Out Attack by the Authorities," 4 June 09; China Human Rights Lawyers Concern Group (Online), "Please Pay Close Attention to the Police Kidnapping and Disappearance of Beijing Human Rights Lawyer Tang Jitian on June 4" [Qing guanzhu beijing weiquan lushi tang jitian liusi bei jingfang bangjia hou shizong], 5 June 09.

[14] Ibid.; Jerome A. Cohen, "Rough Justice: Mainland Rights Lawyers Are Risking Careers, Liberty and Even Their Lives by Taking 'Sensitive' Cases," South China Morning Post (Online), 9 July 09.

[15] In another case of a physical attack on a rights lawyer in April 2009, three unidentified men reportedly attacked prominent Shanghai lawyer Yan Yiming in his office. Posing as potential clients seeking a consultation, the men attacked Yan with a steel bar, leaving him with a broken right shoulder and a fractured left shoulder, and bruises on his back, arms, and hands. Yan explained that he had received several threats this year, and had made many enemies because of his work on controversial cases and issues during the preceding 10 years. Louisa Lim, "Rights Lawyers in China Face Growing Threats," National Public Radio (Online), 3 May 09. See also Lilian Zhang, "Rights Lawyer Beaten by Thugs With Steel Bar," South China Morning Post (Online), 18 April 09.

[16] See, e.g., Human Rights Watch (Online), "China: Pre-Congress Clampdown Intensifies," 9 October 07; Teng Biao, "I Cannot Give Up: Record of a 'Kidnapping,'" China Rights Forum, No. 1, 2009, 30.

[17] Human Rights in China (Online), "Chinese Rights Defense Lawyers Under All-Out Attack by the Authorities," 4 June 09. See also two statements from a group of rights defense lawyers translated by Human Rights in China from late May 2009 and early June 2009. Moreover, surveillance and monitoring of human rights attorneys intensified around the 20th anniversary of the violent suppression of the Tiananmen protests on June 4. Authorities placed under surveillance Jiang Tianyong, Li Heping, and Li Xiongbing, three of the lawyers whose lawyers' licenses were revoked this year. Jiang Tianyong reported that he was prohibited from leaving his house from June 3 to June 7, and that the police officers stationed at his door physically threatened Jiang, his wife, and their daughter. See China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement Submitted by Bob (Xiqiu) Fu, President of ChinaAid, attaching Jiang Tianyong, "Human Rights Attorneys in China Very Active but Find Themselves in a Dire Situation." Li Xiongbing reported that he was monitored and followed by the police from June 2 through June 9. See China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement Submitted by Bob (Xiqiu) Fu, President of ChinaAid, attaching Li Xiongbing, "Practicing Law Under Ubiquitous Pressure." Prominent rights defense lawyers Li Fangping and Pu Zhiqiang were also monitored and followed. See Human Rights in China (Online), "Chinese Rights Defense Lawyers Under All-Out Attack by the Authorities," 4 June 09.

[18] Chinese Human Rights Defenders (Online), "Lawyers Face Revocation of Their Licenses for Defending Human Rights," 25 May 09; Human Rights in China (Online), "Chinese Rights Defense Lawyers Under All-Out Attack by the Authorities," 4 June 09; Chinese Human Rights Defenders (Online), "China Human Rights Briefing, July 6–12," 23 July 09.

[19] Petteri Tuohinen, "Chinese Farmers Lose Land to Stora Enso Tree Plantations," Helsingin Sanomat International Edition (Online), 26 June 09; Xiao Zhi, Chinese Human Rights Defenders (Online), "Another Case of Human Rights Lawyer Being Beaten in Guangxi: Suspected To Be Work of Collusion Between Officials, Business Leaders and Organized Criminals" [Guangxi zaici fasheng weiquan lushi bei ou shijian yi wei guanshanghei sangu shili muhou zhishi], 11 April 09.

[20] See, e.g., Human Rights in China (Online), "Chinese Rights Defense Lawyers Under All-Out Attack by the Authorities," 4 June 09; Chinese Human Rights Defenders (Online), "Beijing Lawyer Cheng Hai Assaulted by Officials for Representing Falun Gong Practitioner," 14 April 09; "Human Rights Lawyers Cheng Hai and Yang Zaixin Attacked, Get Public Attention" [Weiquan lushi cheng hai, yang zaixin zao weigong, yinfa yulun guanzhu], Radio Free Asia (Online), 13 April 09.

[21] Chinese Human Rights Defenders (Online), "Beijing Lawyer Cheng Hai Assaulted by Officials for Representing Falun Gong Practitioner," 14 April 09; Human Rights in China (Online), "Chinese Rights Defense Lawyers Under All-Out Attack by the Authorities," 4 June 09.

[22] Chinese Human Rights Defenders (Online), "Beijing Lawyer Cheng Hai Assaulted by Officials for Representing Falun Gong Practitioner," 14 April 09. Cheng Hai was employed at the Yitong Law Firm until October 2008, when he left under pressure from the firm for his role in advocating for direct elections of the leadership of the government-controlled Beijing Lawyers Association. See Human Rights in China (Online), "Beijing Law Firm Faces Six-Month Shutdown for Attorney's Support of Direct Bar Election," 19 February 09.

[23] China Human Rights Lawyers Concern Group (Online), "Beijing Lawyers Li Chunfu and Zhang Kai Beaten for Representing Re-education Through Labor Camp Death Case," 14 May 09; Dong Lei, Chinese Human Rights Defenders (Online), "Breaking News: Beijing Lawyers Zhang Kai, Li Chunfu Are Taken Away in Handcuffs in Chongqing by More Than 20 Domestic Security Protection Officers" [Jinji kuaixun: beijing zhang kai, li chunfu lushi zai chongqing ban'an bei dangju guobao jingcha ershi duo ren yong shoukao kaozou], 13 May 09; Chinese Human Rights Defenders (Online), "Three Lawyers Detained for Defending Falun Gong Practitioners," 17 July 09.

[24] China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement Submitted by Bob (Xiqiu) Fu, President of ChinaAid, attaching Zhang Kai and Li Chunfu, "Joint Declaration of Rights Defense Attorneys," 6 July 09, 1; China Human Rights Lawyers Concern Group (Online), "Beijing Lawyers Li Chunfu and Zhang Kai Beaten for Representing Re-education Through Labor Camp Death Case," 14 May 09; Dong Lei, Chinese Human Rights Defenders (Online), "Breaking News: Beijing Lawyers Zhang Kai, Li Chunfu Are Taken Away in Handcuffs in Chongqing by More Than 20 Domestic Security Protection Officers" [Jinji kuaixun: beijing zhang kai, li chunfu lushi zai chongqing ban'an bei dangju guobao jingcha ershi duo ren yong shoukao kaozou], 13 May 09.

[25] China Human Rights Lawyers Concern Group (Online), "Beijing Lawyers Li Chunfu and Zhang Kai Beaten for Representing Re-education Through Labor Camp Death Case," 14 May 09; Dong Lei, Chinese Human Rights Defenders (Online), "Breaking News: Beijing Lawyers Zhang Kai, Li Chunfu Are Taken Away in Handcuffs in Chongqing by More Than 20 Domestic Security Protection Officers" [Jinji kuaixun: beijing zhang kai, li chunfu lushi zai chongqing ban'an bei dangju guobao jingcha ershi duo ren yong shoukao kaozou], 13 May 09.

[26] Chinese Human Rights Defenders (Online), "'Charter 08' Original Signatory Beijing Lawyer Tang Jitian's Forced Disappearance: Update 1" [Lingba xianzhang shoupi qianshuren beijing tang jitian lushi bei qiangpo shizong houxu yi], 4 June 09.

[27] China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement Submitted by Bob (Xiqiu) Fu, President of ChinaAid, attaching Tang Jitian, "Fighting for Rights Continues Even as Persecution Escalates—A Human Rights Attorney's Experience and Perseverance"; Chinese Human Rights Defenders (Online), "'Charter 08' Original Signatory Beijing Lawyer Tang Jitian's Forced Disappearance: Update 1" [Lingba xianzhang shoupi qianshuren beijing tang jitian lushi bei qiangpo shizong houxu yi], 4 June 09.

[28] Chinese Human Rights Defenders (Online), "Charter 08 Primary Signatory Lawyer Tang Jitian Released, Is Now Returning Home" ["Lingba xianzhang" shoupi qianshuren tang jitian lushi bei fang hui jia zhong], 7 June 09.

[29] China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement Submitted by Bob (Xiqiu) Fu, President of ChinaAid, attaching Tang Jitian, "Fighting for Rights Continues Even as Persecution Escalates—A Human Rights Attorney's Experience and Perseverance."

[30] Chinese Human Rights Defenders (Online), "Three Lawyers Detained for Defending Falun Gong Practitioners," 17 July 09.

[31] Chinese Human Rights Defenders (Online), "Debarred Lawyer Tortured and Arrested in Northeastern China," 27 August 09.

[32] Chinese Human Rights Defenders (Online), "Three Lawyers Detained for Defending Falun Gong Practitioners," 17 July 09 (CECC translation of relevant language in article 300 of the PRC Criminal Code); Chinese Human Rights Defenders (Online), "Debarred Lawyer Tortured and Arrested in Northeastern China," 27 August 09.

[33] China Human Rights Lawyers Concern Group (Online), "Online Petition: Support Human Rights Lawyers Who Failed the 'Annual Assessment and Registration,'" 5 August 09.

[34] Teng Biao, "The Law on Trial in China," Washington Post (Online), 25 July 09.

[35] China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement Submitted by Bob (Xiqiu) Fu, President of ChinaAid, attaching Li Fangping, "The Challenges Rights Defense Attorneys in China Face and Its Future Prospect"; Ariana Eunjung Cha, "Human Rights Lawyers 'Disbarred' by Paperwork: Chinese Officials Decline To Renew Annual Licenses," Washington Post (Online), 26 June 09.

[36] CECC, 2008 Annual Report, 31 October 08, 164; Teng Biao, "The Law on Trial in China," Washington Post (Online), 25 July 09.

[37] Teng Biao, "The Law on Trial in China," Washington Post (Online), 25 July 09.

[38] These lawyers include: Jiang Tianyong, Li Heping, Li Xiongbing, Li Chunfu, Wang Yajun, Guo Shaofei, Cheng Hai, Tang Jitian, Xie Yanyi, Zhang Xingshui, Yang Huiwen, Tong Chaoping, Liu Guitao, Wen Haibo, Liu Wei, Zhang Lihui, Zhang Chengmao, Wei Liangyue, Sun Wenbing, Liu Shihui, and Wang Yonghang. See China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement Submitted by Bob

(Xiqiu) Fu, President of ChinaAid; Chinese Human Rights Defenders (Online), "Chinese Human Rights Lawyers Face Oppression, Many Still Unable To Work" [Zhongguo renquan lushi zao daya dadu reng buneng zhiye], 1 July 09; Chinese Human Rights Defenders (Online), "Licenses of 18 Rights Lawyers Still Not Renewed a Month After Deadline," 2 July 09; Chinese Human Rights Defenders (Online), "China Human Rights Briefing August 17–23, 2009," 26 August 09; Chinese Human Rights Defenders (Online), "Debarred Lawyer Tortured and Arrested in Northeastern China," 27 August 09.

[39] Chinese Human Rights Defenders (Online), "Chinese Human Rights Lawyers Face Oppression, Many Still Unable To Work" [Zhongguo renquan lushi zao daya dadu reng buneng zhiye], 1 July 09.

[40] China Human Rights Lawyers Concern Group (Online), "Online Petition: Support Human Rights Lawyers Who Failed the 'Annual Assessment and Registration,'" 24 July 09.

[41] Jerome A. Cohen, "Rough Justice: Mainland Rights Lawyers Are Risking Careers, Liberty and Even Their Lives by Taking 'Sensitive' Cases," South China Morning Post (Online), 9 July 09; China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement Submitted by Bob (Xiqiu) Fu, President of ChinaAid; Chinese Human Rights Defenders (Online), "Chinese Human Rights Lawyers Face Oppression, Many Still Unable To Work" [Zhongguo renquan lushi zao daya dadu reng buneng zhiye], 1 July 09; Chinese Human Rights Defenders (Online), "Licenses of 18 Rights Lawyers Still Not Renewed a Month After Deadline," 2 July 09.

[42] These methods are likely employed outside Beijing as well, but most human rights lawyers are based in Beijing, and the reports on the plight of the human rights lawyers from China have focused on the situation in Beijing.

[43] China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement Submitted by Bob (Xiqiu) Fu, President of ChinaAid, attaching Li Heping, "The Challenges Rights Defense Attorneys in China Face and Its Future Prospect." For example, lawyer Zhang Kai, whose license was renewed this year, was nevertheless fired by his law firm without explanation. See Human Rights in China (Online), "Chinese Rights Defense Lawyers Under All-Out Attack by the Authorities," 4 June 09.

[44] China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement Submitted by Bob (Xiqiu) Fu, President of ChinaAid, attaching Jiang Tianyong, "Human Rights Attorneys in China Very Active but Find Themselves in a Dire Situation." According to this statement, the director of Jiang's law firm expressed concern that the government would shut down the law firm because of Jiang's and several other attorneys' involvement in human rights cases.

[45] China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement Submitted by Bob (Xiqiu) Fu, President of ChinaAid, attaching Tang Jitian, "Fighting for Rights Continues Even as Persecution Escalates—A Human Rights Attorney's Experience and Perseverance."

[46] China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement Submitted by Bob (Xiqiu) Fu, President of ChinaAid, attaching Jiang Tianyong, "Human Rights Attorneys in China Very Active but Find Themselves in a Dire Situation."

[47] China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement Submitted by Bob (Xiqiu) Fu, President of ChinaAid, attaching Tang Jitian, "Fighting for Rights Continues Even as Persecution Escalates—A Human Rights Attorney's Experience and Perseverance."

[48] China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement Submitted by Bob (Xiqiu) Fu, President of ChinaAid, attaching Li Xiongbing, "Practicing Law Under Ubiquitous Pressure."

[49] Rebecca MacKinnon, "Beijing Legal Crusader Gets 'Dealt With,'" RConversation (Online), 19 February 09; Human Rights in China (Online), "Beijing Law Firm Faces Six-Month Shutdown for Attorneys' Support of Direct Bar Election," 19 February 09.

[50] Jerome A. Cohen, "The Struggle for Autonomy of Beijing's Public Interest Lawyers," China Rights Forum, No. 1, 2009, 12; Rebecca MacKinnon, "Beijing Legal Crusader Gets 'Dealt With,'" RConversation (Online), 19 February 09.

[51] Human Rights in China (Online), "Beijing Law Firm Faces Six-Month Shutdown for Attorney's Support of Direct Bar Election," 19 February 09; ChinaAid (Online), "Yitong Law Firm Closed for Defending Human Rights Cases," 6 March 09; Jerome A. Cohen, "The Struggle for Autonomy of Beijing's Public Interest Lawyers," China Rights Forum, No. 1, 2009, 12.

[52] ChinaAid (Online), "Yitong Law Firm Closed for Defending Human Rights Cases," 6 March 09; Louisa Lim, "Rights Lawyers in China Face Growing Threats," National Public Radio (Online), 3 May 09; "Law Firm That Defends Dissenters To Be Closed, Say Activists," Agence France-Presse, reprinted in South China Morning Post (Online), 22 February 09; Chinese Human Rights Defenders (Online), "Li Jinsong: Beijing Lawyers Association Suspected of Evading 32.72 Million Yuan of Income Tax" [Li Jinsong: Beijing luxie shexian toutao suode shui 3272 wan yuan], 4 August 09.

[53] Jerome A. Cohen, "The Struggle for Autonomy of Beijing's Public Interest Lawyers," China Rights Forum, No. 1, 2009, 12; Liu Xiaoyuan, "Beijing Yitong Law Firm Forced To Close; All Employees Are Out of Work for 6 Months" [Beijing yitong lushisuo tingye zhengdun, quan suo renyuan xiagang liuge yue], reprinted in Chinese Human Rights Defenders (Online), 17 March 09.

[54] Ariana Eunjung Cha, "Human Rights Lawyers 'Disbarred' by Paperwork: Chinese Officials Decline To Renew Annual Licenses," Washington Post (Online), 26 June 09.

[55] Rebecca MacKinnon, "Beijing Legal Crusader Gets 'Dealt With,'" RConversation (Online), 19 February 09; ChinaAid (Online), "Yitong Law Firm Closed for Defending Human Rights Cases," 6 March 09. See also "Law Firm That Defends Dissenters To Be Closed, Say Activists," Agence France-Presse, reprinted in South China Morning Post (Online), 22 February 09; China's

Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement Submitted by Bob (Xiqiu) Fu, President of ChinaAid, attaching Wen Haibo, "Defending Rights in Hardship and on a Thin Line."

[56] "'Killing One to Warn 100' (Shayi jingbai): The Shutdown of Yitong Law Firm," China Rights Forum, No. 1, 2009, 22.

[57] ChinaAid (Online), "Yitong Law Firm Closed for Defending Human Rights Cases," 6 March 09; Human Rights in China (Online), "Beijing Law Firm Faces Six-Month Shutdown for Attorney's Support of Direct Bar Election," 19 February 09.

[58] Human Rights in China (Online), "Beijing Law Firm Faces Six-Month Shutdown for Attorney's Support of Direct Bar Election," 19 February 09; China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement Submitted by Bob (Xiqiu) Fu, President of ChinaAid, attaching Wen Haibo, "Defending Rights in Hardship and on a Thin Line."

[59] Louisa Lim, "Rights Lawyers in China Face Growing Threats," National Public Radio (Online), 3 May 09; "'Killing One to Warn 100' (Shayi jingbai): The Shutdown of Yitong Law Firm," China Rights Forum, No. 1, 2009, 22.

[60] Barbara Demick, "Beijing Frees Legal Activist Xu Zhiyong," Los Angeles Times (Online), 24 August 09. For more information about Xu Zhiyong, see his record of detention searchable through the CECC's Political Prisoner Database.

[61] "Beijing Think Tank Faults Domestic Policies, Issues for March 2008 Tibetan Rioting," Congressional-Executive Commission on China (Online), 6 August 09. Teng Biao, another co-founder of OCI (or Gongmeng), described OCI as "the primary meeting place for China's nascent movement of 'rights lawyers.'" Teng Biao, "The Law on Trial in China," Washington Post (Online), 25 July 09.

[62] Jerome A. Cohen, "Body Blow for the Judiciary," South China Morning Post (Online), 18 October 08; China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Testimony of Professor James V. Feinerman, Georgetown University Law Center.

[63] Willy Lam, "The CCP Strengthens Control Over the Judiciary," China Brief (Online), 3 July 08; CECC, 2008 Annual Report, 31 October 08, 166.

[64] CECC, 2008 Annual Report, 31 October 08, 166; Willy Lam, "The CCP Strengthens Control Over the Judiciary," China Brief (Online), 3 July 08; Al Guo, "Half of Top Judges Lack Legal Training," South China Morning Post (Online), 21 July 09.

[65] Jerome A. Cohen, "Body Blow for the Judiciary," South China Morning Post (Online), 18 October 08; China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement of Professor James V. Feinerman, Georgetown University Law Center, 2–3; Jerome A. Cohen, "People's Justice," South China Morning Post (Online), 25 June 09.

[66] "Heads of High People's Courts Nationwide: 14 [Presiding] Judges Are of the Party/Political Type, 14 Are of the Justice System Type" [Quanguo gaoyuan yuanzhang 14 wei dangzhengxing, 14 wei sifaxing], Xinhua, reprinted in Chengdu Commercial News (Online), 20 July 09; Al Guo, "Half of Top Judges Lack Legal Training," South China Morning Post (Online), 21 July 09.

[67] Al Guo, "Half of Top Judges Lack Legal Training," South China Morning Post (Online), 21 July 09.

[68] Ibid. Georgetown University Law Center Professor James Feinerman noted in his Prepared Statement presented at a Commission roundtable in July that the implications of the Communist Party's political interference in the judicial system "for legal practice and protection of citizens' rights are ominous." China's Human Rights Lawyers: Current Challenges and Prospects, CECC Roundtable, 10 July 09, Written Statement of Professor James V. Feinerman, Georgetown University Law Center, 3.

[69] Li Huizi, "Fewer Disputed Cases Between Government, People Reveals Lack of Confidence in Courts," Xinhua (Online), 4 August 09.

[70] Ibid.

[71] Ibid.

[72] Ibid.

[73] Ye Doudou, "Embattled Courts, a Backlog of Grievances," Caijing (Online), 17 April 09. Practicing attorneys also are losing faith in the efficacy of the PRC Administration Litigation Law. In this article, Liu Wen, an administrative litigation lawyer at the Mo Shaoping Law Firm in Beijing, was quoted in the Caijing article as saying: "The more I do, the less confident I become."

[74] Ibid.

[75] See, e.g., Qin Xudong, "Judicial Reform: A New Round," Caijing (Online), 24 January 09; Yu Jianrong, interviewed by Wu Huaiting, "Local Abuses Main Reason for Mass Incidents," Global Times (Online), 1 September 09.

[76] Ye Doudou, "Embattled Courts, a Backlog of Grievances," Caijing (Online), 17 April 09.

[77] "Supreme Court Encourages Mediation To Resolve Disputes as Lawsuits Increase," Xinhua (Online), 4 August 09.

[78] Report on the Work of the Supreme People's Court, Xinhua (Online), 17 March 09 (Open Source Center, 20 March 09).

[79] Jerome A. Cohen, "People's Justice," South China Morning Post (Online), 25 June 09; Jerome A. Cohen, "The Court of Mass Appeal," South China Morning Post (Online), 4 April 09.

[80] "Summary: Supreme People's Court Urges Efforts To Clear Trial Backlogs," Xinhua, 10 March 09 (Open Source Center, 21 March 09).

[81] Ibid.

[82] "Supreme People's Court Encourages Mediation To Resolve Disputes as Lawsuits Increase," Xinhua (Online), 4 August 09. According to this report, the regulation provides that arbitration agreements will have equal force in law as court decisions.

[83] Qin Xudong, "Judicial Reform: A New Round," Caijing (Online), 24 January 09.

[84] Willy Lam, "Hu's Anti-Graft Drives Lack Institutional Checks and Reforms," China Brief (Online), 20 August 09; Cary Huang, "Reshuffle Targets Judicial Corruption," South China Morning Post (Online), 29 June 09; CECC, 2008 Annual Report, 31 October 08, 167; Duan Hongqing, "President Hu Calls for Deeper Judicial Reform," Caijing (Online), 17 October 07. According to this report, "corruption has been rampant throughout the nation's judiciary."

[85] China Fires Supreme Court Judge Amid Bribery Probe," Associated Press, reprinted in Newsday (Online), 21 August 09; "Party Sacks Ex-Supreme Court VP Over Corruption," Xinhua (Online), 21 August 09; Cary Huang, "Reshuffle Targets Judicial Corruption," South China Morning Post (Online), 29 June 09; CECC, 2008 Annual Report, 31 October 08, 167.

[86] Fiona Tam, "Former Justice Chief Had His Own 'Fort Knox,'" South China Morning Post (Online), 4 September 09; Yang Xingyun, "The War Against Chongqing Triads," Economic Observer (Online), 25 August 09. According to this report, local authorities considered Wen to be "the biggest 'protective umbrella' for the mafia activities in Chongqing." See also Wang Xiangwei, "Triad Ties With Officials Ring Alarm Bells," South China Morning Post (Online), 31 August 09; Qiu Wei, "Gang Crackdown Targets 'Umbrella' Within Governments," Global Times (Online), 2 September 09.

[87] Cary Huang, "Reshuffle Targets Judicial Corruption," South China Morning Post (Online), 29 June 09, noting "rampant judicial corruption." Another article from the South China Morning Post reported that the Supreme People's Court and hundreds of lower courts asked citizens to e-mail their comments about the legal system to the courts' newly established e-mail boxes. Two of the main issues raised by members of the online community were lack of access to the legal process and judicial corruption. See David Eimer, "First Rule of Law: What the Party Says, Goes," South China Morning Post (Online), 9 June 09.

[88] Sun Weiben ed., PRC Administrative Management Encyclopedia [Zhonghua renmin gongheguo xingzheng guanli dacidian], (Beijing: People's Daily Publishing House, 1992), 329. The right to petition, without retribution, is protected in the PRC Constitution (1982). According to Article 41 of the PRC Constitution, "citizens have the right to make grievances against relevant state organs or charges against, or exposures of; any state organ or functionary for violation of the law or dereliction of duty; but fabrication or distortion of facts for purposes of libel or false incrimination is prohibited. The state organ concerned must deal with grievances, charges or exposures made by citizens in a responsible manner after ascertaining the facts. No one may suppress such grievances, charges and exposures or retaliate against the citizens making them. Citizens who have suffered losses as a result of infringement of their civic rights by any state organ or functionary have the right to compensation in accordance with the law." PRC Constitution, adopted 4 December 82, art. 41. The right is also protected by the more recent 2005 National Regulations on Letters and Visits. CECC, 2008 Annual Report, 31 October 08, 165. The practice of submitting grievances to local authorities has existed in China since imperial times. Since the founding of the People's Republic of China, the *xinfang* system, in theory, has ideally functioned to enhance relations among the Party, the government, and the people.

[89] Sun Weiben ed., PRC Administrative Management Encyclopedia [Zhonghua renmin gongheguo xingzheng guanli dacidian], (Beijing: People's Daily Publishing House, 1992), 257; Human Rights Watch (Online), "'We Could Disappear at Any Time': Retaliation and Abuses Against Chinese Petitioners," December 2005, 17.

[90] Jamil Anderlini, "Punished Supplicants," Financial Times (Online), 5 March 09. See also Chinese Human Rights Defenders (Online), "China Human Rights Briefing, March 1–15, 2009," 24 March 09, for details regarding a number of recent petitioning cases.

[91] In December 2008, the Central Party School convened a meeting titled "Xinfang, Law, and Scientific Development" (*Xinfang-fazhi-kexue fazhanguan yantaohui*). More than 100 people from various fields attended to discuss problems and possibilities of the country's *xinfang* system, emphasizing the necessity and feasibility of legislation. In February, the National Xinfang Bureau held a study meeting to strengthen management of the *xinfang* system. At the meeting, leaders urged *xinfang* authorities to raise their understanding of the concept of "scientific development," to discuss the breakthrough in the *xinfang* system work of having leaders receive citizens with grievances on a regular basis, and to strengthen the monitoring of leaders' *xinfang* work. State Xinfang Bureau (Online), "National Xinfang Bureau Opens Scientific Development Study Meeting" [Guojia xinfangju zhaokai xuexi shijian kexue fazhanguan huodong zongjie dahui], 24 February 09; "Beijing Expels Petitioners on Large Scale, Xinfang Offices Serve No Purpose" [Beijing daju quqian fangmin; xinfangban xingtong xushe], Radio Free Asia (Online), 5 August 09; Gillian Wong, "China Orders Local Governments To Listen to Petitioners," Associated Press, reprinted in Yahoo! (Online), 14 April 09.

[92] City officials should meet with people with grievances once every three months, county-level officials at least once a month, and township authorities any time grievances arise. Gillian Wong, "China Orders Local Governments To Listen to Petitioners," Associated Press, reprinted in Yahoo! (Online), 14 April 09.

[93] The notice stated that "eligible petitioners should return to their home provinces to meet with the visiting teams." Some petitioners reportedly believe the effort is simply another trick to get them to leave Beijing. Chinese Human Rights Defenders (Online), "Petitioners Told To Return Home as Supreme People's Court Will Travel to Three Provinces To Hear Their Complaints" [Zuigao fayuan zhangtie gonggao rang san sheng de fangmin huisheng fanying suqiu], 30 July 09.

[94] "Political-Legal Committee Demands That Petitions Involving the Courts and Procuratorates Should Be Solved Before They Reach Beijing" [Zhengfawei yaoqiu shefa shesu xinfang "budao beijing ye neng jiejue wenti"], Xinhua (Online), 7 August 09. See also Chinese Human Rights Defenders (Online), "China Human Rights Briefing, August 3–9, 2009," 12 August 09.

[95] The opinion is titled "Opinion of the Central Political-Legal Committee on Strengthening and Improving Law and Litigation-Related Xinfang Work." See, e.g., "Central Political-Legal Committee Answers Reporters' Questions on Opinion Regarding Strengthening and Improving

Law and Litigation-Related Xinfang Work" [Zhongyang zhengfawei jiu jiaqiang he gaijin shefa shesu xinfang gongzuo yijian da jizhe wen], Xinhua (Online), 18 August 09; Flora Sapio, "If You Want To File a Petition Don't Come to Beijing Please," Forgotten Archipelagoes Blog (Online), 11 August 09; Loretta Chao, "Beijing Moves To End Tradition of Petitions," Wall Street Journal (Online), 22 August 09. Human rights lawyer Li Fangping is quoted in this article as saying that the measure seemed designed to prevent petitioners from appealing to a higher authority: "It should be a normal process to go upward for an appeal."

[96] Shirong Chen, "China Bans Petitioners in Beijing," BBC (Online), 19 August 09.

[97] "Central Political-Legal Committee Answers Reporters' Questions on Opinion Regarding Strengthening and Improving Law and Litigation-Related Xinfang Work" [Zhongyang zhengfawei jiu jiaqiang he gaijin shefa shesu xinfang gongzuo yijian da jizhe wen], Xinhua (Online), 18 August 09.

[98] "Central Political-Legal Committee Answers Reporters' Questions on Opinion Regarding Strengthening and Improving Law and Litigation-Related Xinfang Work" [Zhongyang zhengfawei jiu jiaqiang he gaijin shefa shesu xinfang gongzuo yijian da jizhe wen], Xinhua (Online), 18 August 09; Flora Sapio, "If You Want To File a Petition Don't Come to Beijing Please," Forgotten Archipelagoes Blog (Online), 11 August 09. Petitions may also be filed online, and the authorities have a 60-day deadline to respond. See Shirong Chen, "China Bans Petitioners in Beijing," BBC (Online), 19 August 09.

[99] CECC, 2008 Annual Report, 31 October 08, 165–166.

[100] Carl Minzner, "Xinfang: Alternative to Formal Chinese Legal Institutions," 42 Stanford Journal of International Law 103, 154 (2006).

[101] See, e.g., Gillian Wong, "China Orders Local Governments To Listen to Petitioners," Associated Press, reprinted in Yahoo! (Online), 14 April 09. In its 2008 Annual Report, the Commission noted that authorities increased and further systematized their efforts to illegally intercept and arbitrarily detain petitioners, especially in Beijing during the period preceding the Olympics. CECC, 2008 Annual Report, 31 October 08, 165.

[102] Gillian Wong, "China Orders Local Governments To Listen to Petitioners," Associated Press, reprinted in Yahoo! (Online), 14 April 09. Reportedly, in Hunan, the Provincial Public Security Bureau issued a document stipulating that citizens were not allowed to act as representatives in *xinfang* cases and that any petitioner whose grievance was resolved, but continued to petition, would be detained. See Chinese Human Rights Defenders (Online), "Hunan Issues Ruling, Petitioners Who Petition Again Will Be Detained," 17 April 09.

[103] Gillian Wong, "China Orders Local Governments To Listen to Petitioners," Associated Press, reprinted in Yahoo! (Online), 14 April 09; Chinese Human Rights Defenders (Online), "Silencing Complaints: Human Rights Abuses Against Petitioners in China," 14 March 09.

[104] Chinese Human Rights Defenders (Online), "Silencing Complaints: Human Rights Abuses Against Petitioners in China," 14 March 09.

[105] For example, in July 2009, one 50-year-old woman was beaten inside the Heilongjiang Provincial People's Congress petition reception center. Her fellow petitioners called the police, who simply took the 50-year-old woman away from the scene. See Chinese Human Rights Defenders (Online), "Petitioning Citizens Beaten Within Heilongjiang People's Congress Xinfang Office" [Heilongjiang renda xinfang banyuannei shangfang gongmin bei ouda], 14 July 09.

[106] Cao Shunli was ordered to serve one year of reeducation through labor on charges of "disturbing the office of a public organ," for complaining about being illegally detained by the Andingmenwai police for 36 hours after she attended a protest over Professor Sun Dongdong's comments about persistent petitioners being mentally ill. Human Rights in China, "Timeline: Human Rights Defenders—April 2, 2009–May 6, 2009," China Rights Forum, No. 2, 2009, 148.

[107] Zhai Fangye, "Cases in Which Petitioner Becomes Psychotic Was Preface to 'Weng'an Incident,'" Harbin Dongbei Net, 9 December 08 (Open Source Center, 9 December 08); Chinese Human Rights Defenders (Online), "Psychiatric Hospitals Have Become a Gulag Archipelago With Chinese Characteristics" [Jingshenbingyuan chengwei juyou zhongguo tese de gulage qundao], 17 May 09; Andrew Jacobs, "Complainers in China Hospitalized," New York Times (Online), 8 December 08; Huang Yuhao, "Petitioners Forcibly Sent to Mental Hospitals," Beijing News, 8 December 08 (Open Source Center, 9 December 08).

[108] Chinese Human Rights Defenders (Online), "Silencing Complaints: Human Rights Abuses Against Petitioners in China," 14 March 09.

[109] Zhai Fangye, "Cases in Which Petitioner Becomes Psychotic Was Preface to 'Weng'an Incident,'" Harbin Dongbei Net, 9 December 08 (Open Source Center, 9 December 08).

[110] Ibid.

[111] "Petitioners Sent to Mental Hospitals," Radio Free Asia (Online), 11 December 08.

[112] Ibid. Police have also reportedly sent devout religious followers and Falun Gong practitioners to psychiatric hospitals. See "China's Draft Mental Health Law Called Into Question" [Zhongguo jingshen weisheng fa cao'an shou zhiyi], Radio Free Asia (Online), 17 June 09.

[113] "Dongbei Wang Commentary: Ignoring Petitioners' Issues Leads to Mass Incidents," Harbin Dongbei Net, 8 December 08 (Open Source Center, 9 December 08).

[114] Zhu Zhe, "Scholar Sorry for 'Insane' Words on Petitioners," China Daily (Online), 7 April 09; "Sun Dongdong: Sending Mentally Ill Patients to Hospitals Is the Greatest Safeguard" [Sun dongdong: ba jingshenbingren song dao yiyuan shi zui da de baozhang], China Newsweek (Online), 23 March 09; Sky Canaves, "A Professor's Comments on Mental Illness Draw Ire in China," Wall Street Journal (Online), 3 April 09.

[115] Sky Canaves, "A Professor's Comments on Mental Illness Draw Ire in China," Wall Street Journal (Online), 3 April 09.

[116] Henry Sanderson, "Beijing Professor's Remarks Spark Angry Protests," Associated Press (Online), 10 April 09; Zhu Zhe, "Scholar Sorry for 'Insane' Words on Petitioners," China Daily (Online), 7 April 09.

[117] Ivan Zhai, "Petitioners Decry '99 pc Mentally Ill' Remark," South China Morning Post (Online), 2 April 09; "300 People Publicly Refute Petitioners Are Mentally Ill" [Sanbai ming renshi

gongkai fanbo cheng shangfangzhe bing fei jingshen bingren], Radio Free Asia (Online), 31 March 09.

[118] Zhu Zhe, "Scholar Sorry for 'Insane' Words on Petitioners," China Daily (Online), 7 April 09. According to this article, prominent academic Yu Jianrong, the Director of the Social Issues Research Center (affiliated with the Chinese Academy of Social Sciences), said that "scholars should be more careful with their words." Yu stated that he believed "a stronger sense of social responsibility and more sympathy for the weak can help professionals see the broader picture."

[119] Aaron Jeske and Alyssa Farrelly, China Elections and Governance (Online), "'Crazy' Petitioners and a Broken System," 22 April 09; Sky Canaves, "A Professor's Comments on Mental Illness Draw Ire in China," Wall Street Journal (Online), 3 April 09.

[120] "More Than One Thousand Petitioners Protest at Beijing University, Zhongnanhai, and Tiananmen, Half of Them Are Caught" [Beida zhongnanhai tiananmen kangyi shang qian fangmin ban bei zhua], Radio Free Asia (Online), 13 April 09; Zhu Zhe, "Scholar Sorry for 'Insane' Words on Petitioners," China Daily (Online), 7 April 09; Lilian Zhang, "Protest at 'Mentally Ill' Slur by Academic," South China Morning Post (Online), 8 April 09; Ivan Zhai, "Petitioners Decry '99 pc Mentally Ill' Remark," South China Morning Post (Online), 2 April 09; Dong Lei, Chinese Human Rights Defenders (Online), "Petitioners Continue To Protest Sun Dongdong, Sun's Wife Visits Homes of Petitioners To Apologize and Compensate" [Fangmin chixu kangyi sun dongdong, sun dongdong qizi xiangqian qu ta jia fangmin daoqian bing peiqian], 6 April 09.

[121] Zhu Zhe, "Scholar Sorry for 'Insane' Words on Petitioners," China Daily (Online), 7 April 09. According to this article, Sun also promised to be more careful in the future with his words.

[122] "Sun Dongdong Apologizes for Theory That Petitioners Are Mentally Ill, Popular Indignation Difficult To Quell, News Constrained" [Sun dongdong jiu fangmin jingshenbing lun daoqian minfen nanping xinwen gentie shouxian], Radio Free Asia (Online), 6 April 09. During the week of April 27, several petitioners from outside of Beijing came to the capital and sought to file grievances against Sun in the Haidian District People's Court. "Petitioners Sue Sun Dongdong for Defamation, Detentions in Mental Health Institutions Still Continue in Different Locations" [Fangmin zhuanggao sun dongdong sunhai min yu gedi guanya jingshenbingyuan qingkuang buduan], Radio Free Asia (Online), 28 April 09.

[123] Chinese Human Rights Defenders (Online), "Several Hundred Fearless Petitioners Head to Health Ministry, Continue To Protest Against Sun Dongdong" [Shubai fangmin buju daya qianwang weishengbu jixu kangyi sun dongdong], 25 April 09. One of the largest protests occurred on April 13 involving 1,000 petitioners in various places around Beijing, with nearly 500 protesting at the gate of Beijing University. "More Than One Thousand Petitioners Protest at Beijing University, Zhongnanhai, and Tiananmen, Half of Them Are Caught" [Beida zhongnanhai tiananmen kangyi shang qian fangmin ban bei zhua], Radio Free Asia (Online), 13 April 09.

[124] Murray Scot Tanner, "China Rethinks Unrest," Washington Quarterly (Online), Summer 2004, 138.

[125] CECC, 2008 Annual Report, 31 October 08, 33. See also Chow Chung-yan, "City Leaders Disciplined Over Fatal Yunnan Riots," South China Morning Post (Online), 5 September 08; "Summary: Yunnan Provincial Party Committee Punishes Cadres Over Menglian Incident," China News Agency, 4 September 08 (Open Source Center, 4 September 08); "Two Killed in Yunnan Mass Action," China Daily (Online), 21 July 08; Li Hanyong, "Yunnan Province Adopts Effective Measures To Channel the Masses' Emotions and Appropriately Handle the Menglian Clash Incident To Maintain Stability in the Border Area," 21 July 08 (Open Source Center, 21 July 08).

[126] Zhai Fangye, "Cases in Which Petitioner Becomes Psychotic Was Preface to 'Weng'an Incident,'" Harbin Dongbei Net, 9 December 08 (Open Source Center, 9 December 08).

[127] Ng Tze-wei, "Riots on Rise as Cadres at Fault, Magazine Says," South China Morning Post (Online), 8 September 09; Hu Zujin, "Insight Into the Prevention of and Dealing With Mass Incidents by Public Security Agencies," Beijing Gongan Yanjiu, 11 May 09 (Open Source Center, 16 July 09).

[128] See, e.g., Ng Tze-wei, "Riots on Rise as Cadres at Fault, Magazine Says," South China Morning Post (Online), 8 September 09; Yu Jianrong, interviewed by Wu Huaiting, "Local Abuses Main Reason for Mass Incidents," Global Times (Online), 1 September 09; Liu Zhen and Lucy Hornby, "China To Sack Officials Who Mishandle Protests," Reuters (Online), 13 July 09; Hu Shuli, "Heeding the Lessons of China's Civil Unrest," Caijing (Online), 7 July 09. See also Chris Buckley, "China's Rural Teachers Join Rumble of Unrest," Reuters, reprinted in International Herald Tribune (Online), 6 February 09; "Hundreds Rally in China Over Police Beating," Agence France-Presse (Online), 21 May 09; "Upwards of One Thousand Boiler Factory Workers Block Road in Protest in Wuhan" [Wuhan guoluchang shangqian zhigong dulu kangyi], Radio Free Asia (Online), 14 July 09; Yan Xiu, "Applicants of Farmers' Association Summoned; Veterans Petitioning in Beijing" [Shenqing chengli nonghuizhe bei chuanhuan zhuantui junren shangfang beijing], Radio Free Asia (Online), 8 July 09.

[129] Yu Jianrong, interviewed by Wu Huaiting, "Local Abuses Main Reason for Mass Incidents," Global Times (Online), 1 September 09.

[130] "Police Cars Overturned in South China Protest," Agence France-Presse, 15 June 09 (Open Source Center, 15 June 09).

[131] Civil Rights and Livelihood Watch (Online), "Several Tens of Thousands of People Confirmed on Streets of Hubei Shishou, Family Members Still Protecting Corpse" [Hubei shishou jin bei zhengshi shuwan minzhong shang jie, jia ren reng zai baohu shiti], 20 June 09; Malcolm Moore, "Tens of Thousands of Chinese Fight the Police in Shishou," Telegraph (Online), 22 June 09. Earlier this year, public anger was triggered by an alleged police coverup of another murder. In the Deng Yaqing case, local police in Wuchuan city in Guangdong province abducted the body of a 57-year-old man who was killed in a dispute with staff at an impound lot. Police drove a bread truck to the hospital where Deng's body was being held and seized it, pushing the

deceased's family to the ground when they tried to intervene. The incident caused several thousand people to protest. "'Excited to Death' During Car Pickup? One Thousand People Protest Wuchuan Police Snatching of Body" [Qukou che shi "xingfen si?" wuchuan jingfang qiang shi qian ren kangyi], Radio Free Asia (Online), 18 May 09.

[132] *Minban jiaoshi,* sometimes translated as "people's teachers," "rural teachers," or "teachers who are not state employees," are teachers usually found in rural areas who are not hired by the government to teach in contrast to the better-paid *guojia jiaoshi,* who are teachers hired by the government.

[133] In late June, over 600 "people's teachers" from various parts of Gong'an county, Hubei who had been laid off protested at the county government building for several days, demanding that the government recognize them as public school teachers. The police detained six teachers' representatives for 15 days and sent a number of others home. "People's Teachers From Gong'an County, Hubei Gather To Petition, Representatives Detained" [Hubei gong'an xian minban jiaoshi juji shangfang, daibiao bei xingju], Radio Free Asia (Online), 1 July 09. In early February, teachers in Xinning county in Hunan province "signed a petition demanding wages, pensions and health care." Last December, hundreds of teachers attacked the Xinning county government building. See Chris Buckley, "China's Rural Teachers Join Rumble of Unrest," Reuters, reprinted in International Herald Tribune (Online), 6 February 09. Other incidents involving teachers in 2009 include a group of about 200 "people's teachers" from various places in Shaanxi province who petitioned at the Ministry of Education in Beijing in May over official recognition of their status, layoffs, and pensions and health benefits. Liu Feiyue, Chinese Human Rights Defenders (Online), "Several Hundred Teachers From Shaanxi Province Enter Beijing, Petition in Front of Ministry of Education" [Shanxi quansheng shubai minshi jin jing, jiaoyubu men qian tao shuofa], 18 May 09.

[134] China Labour Bulletin (Online), "Up to 2,000 Teachers Protest Against Unfair Work Practices in Suizhou, Hubei Province," 27 January 04.

[135] Chris Buckley, "China's Rural Teachers Join Rumble of Unrest," Reuters, reprinted in International Herald Tribune (Online), 6 February 09.

[136] "Inner Mongolian Teachers Strike, 'People's Teachers' in Hubei Collectively Petition" [Neimenggu jiaoshi banke hubbei minshi ji shangfang], Radio Free Asia (Online), 10 June 09.

[137] The protesters demanded to see the department director. The teachers were there for hours but in the evening police vehicles and about 500 riot police advanced on the teachers in locked arms. The teachers scattered, with a few elderly teachers being knocked to the ground. Some were run over by the advancing vehicles, including a 60-year-old woman. Civil Rights and Livelihood Watch (Online), "In Henan Several Hundred Police Encircle and Forcefully Disperse 'People's Teacher' Petitioners" [Henan shubai jingcha qiangxing baowei quzhu qingyuan minban jiaoshi], 18 June 09.

[138] Several other protests involving veterans took place during this reporting year. For example, on June 25, several hundred Korean War veterans protested at the office of the Guizhou Provincial Party Committee over inadequate subsidies. Chinese Human Rights Defenders (Online), "Guiyang Korean War Veterans Form Petitioner Group and Hold Protest Demonstration at Gate of Provincial Party Committee" [Guiyang yuanchao laobing zucheng shangfang tuan dao shengwei men qian kangyi youxing], 29 June 09. On April 29, nearly 400 veterans and their family members demonstrated at the city government building of Nanchong city, Sichuan province, demanding social security, health benefits, and higher wages. Chinese Human Rights Defenders (Online), "Veterans in Nanchong City, Sichuan Province Block City Government's Gates" [Sichuan sheng nanchong shi tuiwu bing jiti fengdu shi zhengfu damen], 29 April 09.

[139] Chinese Human Rights Defenders (Online), "Petitioning Military Veterans in Yantai, Shandong Block Roads" [Shandong yantai baofa tuiwu junren da guimo qingyuan dulu huodong], 23 February 09.

[140] Chinese Human Rights Defenders (Online), "Shaanxi Veterans Who Became Industry Cadres Again Present Petition to Provincial Government" [Shanxi laojun zhuanqi ganbu zaici dao sheng zhengfu qingyuan], 29 June 09. Some veterans faced repression for their advocacy efforts, including retired judge Huang Yunmin who was detained by police for speaking out in support of health rights for veterans who had negative health impacts from handling radioactive materials related to China's nuclear tests in Lop Nor, Xinjiang Uyghur Autonomous Region. Chinese Human Rights Defenders (Online), "Retired Judge in Xinjiang Detained for Advocating Health Rights of Veterans," 24 February 09. [For more information on Huang Yunmin's case, see Section II—Climate Change and Environment.]

[141] According to Yu Jianrong, 65 percent of rural protests involve land disputes, primarily relating to the illegal or forceful appropriation of land. Yu Jianrong, interviewed by Wu Huaiting, "Local Abuses Main Reason for Mass Incidents," Global Times (Online), 1 September 09. See also Yu Jianrong, "Anger in the Streets," Caijing (Online), 7 July 09; "Yishui, Shandong Residents' Homes Torn Down, Villagers Petition for Arrangement With No Result" [Shandong yishui qiangchai minfang, cunmin shangfang anzhi wuguo], Radio Free Asia (Online), 20 June 09.

[142] "Inside Story on Shantou Rural Land Division, Several Thousand Rural Residents March in Protest" [Shantou nongcun fendi lu heimu, shuqian nongmin youxing kangzheng], Radio Free Asia (Online), 20 July 09.

[143] "Pingyang, Zhejiang Mobilizes Nearly One Hundred Police To Deal With Rural Residents Who Have Lost Their Land" [Zhejiang pingyang chudong jin bai tejing duifu shidi nongmin], Radio Free Asia (Online), 20 July 09.

[144] "Further on Wen Jiabao Says PRC To Improve 'Early-Warning System' for Stability," Xinhua (Online), 5 March 09 (Open Source Center, 5 March 09). In February, the director of the Office of the Central Leading Group on Agricultural Affairs discussed three "important principles" in managing "mass incidents," stressing the need for leaders to face citizens if a "mass incident" occurs. The three principles are (1) to put the people first and govern for the people; (2) to put local officials at the "front line" and confront protesters face to face when a mass incident occurs, rather than hiding behind the police; and (3) to educate people and assess responsi-

bility after an incident calms down. See "Chen Xiwen: Three Principles To Handle Mass Incidents; No Use of Police Force in Principle" [Chen xiwen: chuli tufa qunti shijian you san yuanze, yuanze shang bu shiyong jingli], Xinhua (Online), 2 February 09.

[145] "China To Sack Officials Who Mishandle Protests," Reuters (Online), 13 July 09. According to this article, "Penalties range from a public apology to suspension, forced resignation and dismissal." The regulations are titled "Party and Government Administration Cadres Temporary Accountability Provisions" [Guanyu shixing dangzheng lingdao ganbu wenze de zhanxing guiding]. See also Chinese Human Rights Defenders (Online), "Party and Government Administration Cadres Temporary Accountability Provisions Go Public: Cadres Who Inappropriately Handle Sudden Mass Incidents Will Be Held Accountable" [Dangzheng ganbu wenze zhanxing guiding chutai chunti tufa shijian chuzhi shidang jiang wenze], 13 July 09.

[146] Choi Chi-yuk, "Courts Told To Create Warning System To Help Prevent Protests," South China Morning Post (Online), 10 June 09.

[147] Ibid.

Notes to Section IV—Xinjiang

[1] See discussion within for detailed information and citations.

[2] For background information on this expression, see Kathrin Hille, "China Cracks Down on Activists," Financial Times, 12 August 09 (Open Source Center, 12 August 09) (describing the expression as "stability is the overriding priority").

[3] See, e.g., CECC, 2006 Annual Report, 20 September 06, 90–91; CECC, 2007 Annual Report, 10 October 07, 106–107; CECC, 2008 Annual Report, 31 October 08, 168–169.

[4] See, e.g., "Uyghur Leader's Family Evicted," Radio Free Asia (Online), 20 August 08; Uyghur American Association (Online), "Family Members of Rebiya Kadeer Ordered Out of Urumchi Homes," 19 August 09; "Uyghur Leader Kadeer Denies Children Turned Against Her," Agence France-Presse, reprinted in France 24 (Online), 4 August 09. For Chinese reporting on the building demolitions and denunciations, see, e.g., "Rebiya Kadeer Building To Be Demolished Over Security Concern," Xinhua, 8 September 09; Cui Jia, "Family Letter to Kadeer Genuine," China Daily (Online), 5 August 09; "Family Asks Rebiya Kadeer Not To Organize Violence, Undermine Harmony," Xinhua (Online), 3 August 09.

[5] Stanley Toops, "Demographics and Development in Xinjiang After 1949," East-West Center Washington Working Papers No. 1, May 2004, 1. See discussion and accompanying footnotes in Section II—Ethnic Minority Rights on the use of the term "ethnic minorities" and government controls over the way people define their ethnic identity.

[6] For detailed information, including information on China's domestic and international obligations toward ethnic minorities, see Section II—Ethnic Minority Rights, as well as the section on "Ethnic Minority Rights" in CECC, 2007 Annual Report, 10 October 07, 105–108, and "Special Focus for 2005: China's Minorities and Government Implementation of the Regional Ethnic Autonomy Law," CECC, 2005 Annual Report, 11 October 05, 13–23.

[7] Ibid.

[8] See citations within.

[9] "Nur Bekri's Speech at Autonomous Region Cadre Plenary Session" [Nu'er baikeli zai zizhiqu ganbu dahui shang de jianghua], Tianshan Net (Online), 11 September 08, also available in translation by the Open Source Center, 29 September 08.

[10] Ibid.

[11] Ibid.

[12] "Autonomous Region Convenes Cadre Plenary Session on Making Concerted Efforts To Safeguard Xinjiang's Social and Political Stability" [Zizhiqu zhaokai ganbu dahui qixinxieli weihu xinjiang shehui zhengzhi wending], Tianshan Net (Online), 11 September 08. For an additional reference to increased antiseparatism education, see "Wang Lequan's Speech at Autonomous Region 5th Commendation Meeting on Advancement of Ethnic Unity" [Wang lequan zai zizhiqu di wu ci minzu tuanjie jinbu biaozhang dahui shang de jianghua], Tianshan Net (Online), 16 September 08.

[13] "Xinjiang Representatives, While Answering Questions Posed by Chinese and Foreign Media Correspondents, Indicate Firm Confidence in Responding to the Challenge of Battling To Accelerate Development and Safeguard Stability" [Xinjiang daibiao huida zhong-wai meiti jizhe tiwen shi biaoshi jianding xinxin yingdui tiaozhan jiakuai fazhan weihu wending], Tianshan Net (Online), 7 March 09; "Chinese Official Warns of 'More Severe' Security Situation in Xinjiang," Xinhua (Online), 6 March 09.

[14] State Council Information Office (Online), White Paper on China's National Defense in 2008, January 2009.

[15] See within as well as, e.g., Wang Xinhong, "Autonomous Region Government Calls for Improving All Work To Uphold Stability, Development, and People's Livelihood" [Zizhiqu zhengfu yaoqiu zuohao bao wending bao fazhan bao minsheng gexiang gongzuo], Xinjiang Daily, reprinted in Xinhua (Online), 21 July 09; "Hu Holds Key Meeting on Xinjiang Riot, Vowing Severe Punishment on Culprits," Xinhua (Online), 9 July 09.

[16] CECC, 2008 Annual Report, 31 October 08, 168–169.

[17] The government has long claimed the continued existence of terrorist and separatist threats through spurious statistics and shoddy factual support. For an analysis of Chinese reporting on terrorist activity, see "Uighurs Face Extreme Security Measures; Official Statements on Terrorism Conflict," CECC China Human Rights and Rule of Law Update, May 2006, 12.

[18] For an analysis of Chinese reporting on one of the alleged terrorist plots and on the aircraft attack, see "Xinjiang Authorities Pledge Crackdown Against 'Three Forces,'" CECC China Human Rights and Rule of Law Update, March/April 2008, 2. For more information on two of the alleged terrorist plots, see "Ministry of Public Security Circulates Notice on Recently Cracking Two Cases of Plots To Carry Out Terrorist Activity" [Gong'anbu tongbao jinqi pohuo de liangqi cehua shishi baoli kongbu huodong anjian], Tianshan Net (Online), 10 March 08.

[19] Cui Jia, "7 Terror Cells Uncovered in Kashi: Govt," China Daily, 3 June 09.

[20] "Police Prevent Terrorist Attacks in Xinjiang," Xinhua, 3 August 09 (Open Source Center, 3 August 09).
[21] "Xinjiang Police Capture Terror Gang and Explosives," Xinhua (Online), 16 September 09.
[22] "Uighurs Face Extreme Security Measures; Official Statements on Terrorism Conflict," CECC China Human Rights and Rule of Law Update, May 2006, 12.
[23] See example that follows for information on characterizing peaceful human rights activists as terrorists and see Freedom of Expression and Assembly within this section for examples of people imprisoned on charges of separatism for peaceful forms of expression.
[24] De Yongjian, "Xinjiang Public Security Department Says Xinjiang Will Crack Down on Terrorist Activities According to Law," China News Service, 22 May 09 (Open Source Center, 24 May 09). In addition, following the July 5 demonstration in Urumqi and ensuing violence in the region, XUAR Party Secretary Wang Lequan was paraphrased by official media as saying "the riot in Urumqi revealed the violent and terrorist nature of the separatist World Uyghur Congress leader Rebiya Kadeer." "Xinjiang Party Chief Slashes Riot Which Kills 140," Xinhua (Online), 7 July 09.
[25] See individual citations within this paragraph as well as an overview of these developments as reported in "Xinjiang Authorities Announce Heightened Security Threat, Strengthen Security Capacity, and Continue Propaganda Campaigns," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 4.
[26] "Xinjiang People's Armed Police Upgrade in Status, Central Politburo Members Attend Announcement and Commendation Meeting" [Wujing xinjiang zongdui shengge zhongyang zhengzhiju weiyuan chuxi xuanbu mingling dahui], Tianshan Net, reprinted in NetEase (Online), 27 November 08; "Xinjiang Armed Police Elevated to Greater Role in Fighting Terror," Xinhua (Online), 28 November 08.
[27] "'Three Forces' Vainly Attempt To Carry Out New Sabotage Activity" [Xinjiang 'san gu shili' wangtu jinxing xin de pohuai huodong], Xinjiang Daily (Online), 6 March 09.
[28] Zhang Jingyong and Li Xuanliang, "Zhou Yongkang: Strengthen Mass Work in New Period, Safeguard Harmony and Stability on Border Areas" [Zhou yongkang: jiaqiang xin shiqi qunzhong gongzuo weihu bianjiang hexie wending], Xinhua (Online), 8 June 09.
[29] "Xinjiang To Speed Up Legislation Against Separatism, Regional Top Lawmaker," Xinhua (Online), 20 July 07; Tini Tran, "After Riots, China To Promote Anti-Separatist Laws," Associated Press, reprinted in Yahoo! (Online), 20 July 09; "Xinjiang Plans To Draft Two Regulations on Ethnic Unity Education and Anti-Separatism Battle" [Xinjiang ni zhiding minzu tuanjie jiaoyu he fan fenlie douzheng liang fagui], People's Daily, reprinted in China Ethnicities News (Online), 25 July 09. The Standing Committee of the XUAR People's Congress also passed a resolution on cracking down on crime and upholding stability. "Resolution on Sternly Cracking Down on Serious Violent Crime According to Law and Firmly Safeguarding Nationality Solidarity and Social Stability," Xinjiang Daily, 25 July 09 (Open Source Center, 16 August 09).
[30] See examples that follow as well as other examples cited in "Xinjiang Authorities Announce Heightened Security Threat, Strengthen Security Capacity, and Continue Propaganda Campaigns," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 4.
[31] Aqsu District Environmental Protection Bureau, "Aqsu District Administrative Office Official Puts Forth Four Points for Grasping Social Stability" [Aqsu diqu xingshu zhuanyuan tichu zhua shehui wending si xiang zhongdian], reprinted on the Web site of the Xinjiang Environmental Protection Department (Online), 23 February 09.
[32] Kashgar District Government (Online), "Poskam County Moves To Build Social Safety Net" [Zepu xian duo jucuo gouzhu shehui anquan wang], 12 March 09.
[33] Some reports specifically cite direction from the Xinjiang regional government. See, e.g., Qaramay Municipal Government (Online), "Municipal Public Security Bureau Launches 100-Day Strike Hard Campaign, Gets Incremental Results" [Shi gonganju kaizhan bairi yanda zhuanxiang xingdong qude jieduanxing jieguo], 15 June 09; Tang Linjiang, "Changji Prefecture Public Security Organs Carry Out '100-Day Strike Hard' Campaign" [Changji zhou gongan jiguan shishi "bairi yanda zhuanxiang xingdong"], Changji Peace Net (Online), 4 April 09. For additional reports on the campaign in the XUAR, see, e.g., Liu Qingxia, "Urumqi Unveils '100-Day Strike Hard' Campaign" [Wulumuqi "bairi yanda" zhuanxiang xingdong lakai weimu], Urumqi Online (Online), 21 April 09; Zhao Jing, "Yopurgha County Unveils '100-Day Strike Hard' Campaign" [Yuepuhu xian "bairi yanda" zhuanxiang douzheng lakai weimu], Kashgar News Network (Online), 14 May 09. At the nationwide level, the Ministry of Public Security called in late April for public security offices across China to launch a six-month campaign to "rectify public order" in advance of the anniversary of the founding of the People's Republic of China. "Our Country To Launch Half-Year Campaign To Rectify Public Order To Welcome 60th Anniversary of Country's Founding" [Wo guo jiang kaizhan bannian zhian zhengzhi xingdong yingjie jianguo 60 zhou nian], China News Net, reprinted in Sina (Online), 27 April 09.
[34] See, e.g., Chen Longbing, "Our County Opens '100-Day Strike Hard' Mobilization Meeting" [Wo xian zhaokai 'bairi yanda' dongyuan dahui], Shufu County Public Information Network (Online), 19 May 2009; Xinjiang Regional Government (Online), "Shihezi Public Security Bureau Launches '100-Day Strike Hard' Campaign" [Shihezi shi gonganju kaizhan "bairi yanda" zhuanxiang xingdong], 20 April 09; Zhao Jing, "Yopurgha County Unveils '100-Day Strike Hard' Campaign" [Yuepuhu xian "bairi yanda" zhuanxiang douzheng lakai weimu], Kashgar News Network (Online), 14 May 09; Tang Linjiang, "Changji Prefecture Public Security Organs Carry Out '100-Day Strike Hard' Campaign" [Changji zhou gongan jiguan shishi "bairi yanda zhuanxiang xingdong"], Changji Peace Net (Online), 4 April 09.
[35] "Uyghurs Held in Clampdown," Radio Free Asia (Online), 19 June 09. For more information on controls over religious practice implemented as part of security campaigns, see Section II—Freedom of Religion—China's Religious Communities—Islam.
[36] Wen Linuo, "Jierla Yishamuding Reports on Situation Regarding Dealing With the 'July 5' Incident" [Jierla yishamuding tongbao guanyu "7.5" shijian de chuzhi qingkuang], Xinjiang City News, reprinted in China Xinjiang (Online), 7 August 09. See also Wang Xiaojuan and Du

Jianjia, "Report on Over 8000 Cadres in Urumchi Launching Upholding Stability Work" [Wulumuqi shi 8000 yu ming ganbu kaizhan weihu wending gongzuo jishi], Urumqi Online, reprinted in Xinhua (Online), 13 August 08; Li Rui, Ren Libo, and Hwang Yen, "Seen and Heard During Community Work by Urumqi '7–5' Upholding Stability Work Force" [Wulumuqi "7–5" shijian weiwen gongzuodui shequ gongzuo jianwen], Xinhua (Online), 21 July 09; Yang Qinglin, "Urumqi's Anti-Terrorist Stability Maintenance Net Established at Grassroots Level," Ta Kung Pao, 16 July 09 (Open Source Center, 24 August 09). See also discussion that follows on the role of stability work teams in spreading Party-sanctioned accounts of events on July 5.

[37] Gao Ji, "Urumqi Capital Branch of Anti-Terrorism Stability Maintenance People's Militia Emergency Joint Defense Group Established" [Wulumuqi shou zhi fankong weiwen minbing yingji lianfang dadui chengli], Xinjiang Metropolitan News, reprinted in Xinhua (Online), 11 August 09.

[38] "'Big Hands Lead Small Hands, Walking Forever With the Party,' Results of Hoten District's Anti-Separatism Reeducation Are Striking" ["Dashou la xiaoshou yongyuan gen dang zou" hetian diqu fan fenlie douzheng zaijiaoyu xiaoguo xianzhu], Xinjiang Daily (Online), 8 February 09.

[39] Kashgar District Government (Online), "Ideological Anti-Separatism Reeducation Activities Comprehensively Launched in Kashgar City" [Kashi shi yishi xingtai lingyu fan fenlie douzheng zaijiaoyu huodong quanmian zhankai], 22 December 08.

[40] See generally "Xinjiang Authorities Announce Heightened Security Threat, Strengthen Security Capacity, and Continue Propaganda Campaigns," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 4.

[41] The letter also denounced the World Uyghur Congress and "Tibet Independence." For more information on this women's federation campaign and examples of other rhetoric against human rights activity, see "Xinjiang Authorities Announce Heightened Security Threat, Strengthen Security Capacity, and Continue Propaganda Campaigns," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 4, citing Qizilsu Prefecture Anti-Separatism Office, "Qizilsu Prefecture Women's Association's 'Letter to Women of the Prefecture' Boosts Anti-Separatism Propaganda and Education Activities" [Ke zhou fulian "zhi quan zhou funu yifeng xin" zhutui fan fenlie xuanchuan jiaoyu huodong], reprinted in Xinjiang Peace Net (Online), 19 December 08.

[42] "Senior Chinese Leader Calls for 'Tough Measures' To Ensure Stability," Xinhua (Online), 10 July 09. See also, e.g., Cheng Lixin and Wang Xinhong, "Wang Lequan Emphasizes at Regional Cadre Gathering: Go All-Out To Fight Well This Tough Battle To Maintain Stability," Xinjiang Daily, 16 July 09 (Open Source Center, 7 August 09); Feng Jin, "In His Report on Handling the '5 July' Incident, Nur Bekri Calls for Going All Out To Safeguard the Motherland's Unification, Ethnic Solidarity and Social Stability," Xinjiang Daily, 25 July 09 (Open Source Center, 17 August 09).

[43] "Xinjiang Plans To Draft Two Regulations on Ethnic Unity Education and Anti-Separatism Battle" [Xinjiang ni zhiding minzu tuanjie jiaoyu he fan fenlie douzheng liang fagui], People's Daily, reprinted in China Ethnicities News (Online), 25 July 09.

[44] Li Rui, Ren Libo, and Hwang Yen, "Seen and Heard During Community Work by Urumqi '7–5' Upholding Stability Work Force" [Wulumuqi "7–5" shijian weiwen gongzuodui shequ gongzuo jianwen], Xinhua (Online), 21 July 09.

[45] Authorities used "face-to-face" talks to convey the "truth" of events on July 5, according to the Ili Party secretary. He Zhanjun, "Face-to-Face Exchange, Heart-to-Heart Communication—College Students Returning to Ili, Xinjiang, Enter the Home and Explain Truth of '7–5' Incident" [Mianduimian jiaoliu xinyuxin xiangtong—xinjiang yili fanxiang daxuesheng ruhu xuanjiang '7–5' shijian zhenxiang], Xinhua, 22 July 09 (Open Source Center, 22 July 09).

[46] "Erkinjan Turaxun Calls for Our Region's Education System To Carry Out in Deep-Going Way Work on Opposing Separatism and Infiltration" [Erkenjiang tulahong yaoqiu wo qu jiaoyu xitong shenru kaizhan fan fenlie fan shentou gongzuo], Xinjiang Daily (Online), 8 October 08. In addition, at a March 2008 training session for school principals and Party secretaries, XUAR Party Secretary Wang Lequan called on personnel to strengthen their "sense of political responsibility" and take steps to spread information on Chinese socialism to counter threats of "infiltration" from the "three forces" of terrorism, separatism, and religious extremism. "At Our Region's Third Term of Study for Secondary School Secretaries and Principals, Wang Lequan Stresses Strengthening Sense of Political Responsibility, Raising Quality and Levels for Running Schools" [Wang lequan zai wo qu di san qi zhongxue shuji xiaozhang peixun ban shang qiangdiao zengqiang zhengzhi zerengan tigao banxue zhiliang he shuiping], Xinjiang Daily (Online), 1 April 09.

[47] See detailed information in "Xinjiang Authorities Continue Security Measures, Propaganda Campaigns," CECC China Human Rights and Rule of Law Update, December 2008, 2, and "Xinjiang Authorities Announce Heightened Security Threat, Strengthen Security Capacity, and Continue Propaganda Campaigns," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 4.

[48] For a comparison of the scope of propaganda education in XUAR schools and in schools nationwide in China, as stipulated in a trial program announced in November 2008 that directs schools throughout the country to implement "ethnic unity education," see "Xinjiang Authorities Announce Heightened Security Threat, Strengthen Security Capacity, and Continue Propaganda Campaigns," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 4; "Xinjiang Authorities Continue Security Measures, Propaganda Campaigns," CECC China Human Rights and Rule of Law Update, December 2008, 2; "Chinese Government Mandates 'Ethnic Unity Education' To Promote Party Policy on Ethnic Groups," CECC China Human Rights and Rule of Law Update, No. 1, 2009, 3. For more information on central government measures to strengthen education on ethnic issues in Chinese schools, as well as broader efforts to promote government policy toward ethnic issues, see also Section II—Ethnic Minority Rights.

[49] "Autonomous Region To Strengthen and Drive Ahead With Ethnic Unity Education and Anti-Separatism Education Among Young Adults and Juveniles" [Zizhiqu jiang jiaqiang he tuijin qingshaonian minzu tuanjie he fan fenlie jiaoyu], Xinjiang Daily (Online), 25 May 09.

[50] Uyghur American Association (Online), "Protest in Urumqi Violently Suppressed by Chinese Government Forces," 5 July 09.

[51] Li Xing, "Nur Bekri Emphasizes: Use Strong Measures To Ensure Safety and Stability of Colleges and Universities" [Nu'er baikeli qiangdiao: yi qiangyouli cuoshi quebao gaoxiao anquan wending], Xinjiang Daily, reprinted in Xinhua (Online), 7 July 09.

[52] Zhang Xinyu, "Erkinjan Turaxun Stresses: Safeguard Stability in Schools, Strengthen Ethnic Unity" [Erkenjiang tulahong qiangdiao: weihu xuexiao wending jiaqiang minzu tuanjie], Xinjiang Daily, reprinted in Xinhua (Online), 25 July 09.

[53] He Zhanjun, "Face-to-Face Exchange, Heart-to-Heart Communication—College Students Returning to Ili, Xinjiang, Enter the Home and Explain Truth of '7–5' Incident" [Mianduimian jiaoliu xinyuxin xiangtong—xinjiang yili fanxiang daxuesheng ruhu xuanjiang '7–5' shijian zhenxiang], Xinhua, 22 July 09 (Open Source Center, 22 July 09).

[54] The information in this box provides an overview of events in the XUAR starting July 5 and is largely based on previously published Commission analyses of the demonstration. For detailed information, see "Xinjiang Authorities Forcefully Suppress Demonstration, Restrict Free Flow of Information," CECC China Human Rights and Rule of Law Update, No. 4, 2009, 2 and "Authorities Pledge Crackdown Following Xinjiang Demonstration and Clashes," CECC China Human Rights and Rule of Law Update, No. 4, 2009, 1.

[55] Information on the timing of events, including information in Chinese reports suggesting a lag time between when people gathered and when "rioting" began, supports overseas reports that people initially gathered and began to protest peacefully. See, e.g., "Peaceful Demonstration Meets Suppression" [Tinch shekildiki namayish basturushqa uchrighan], Radio Free Asia (Online), 5 July 09; "Urumqi Tense, Quiet After Violence," Radio Free Asia (Online), 5 July 09; Uyghur American Association (Online), "Protest in Urumqi Violently Suppressed by Chinese Government Forces," 5 July 09; "Recalling the Nightmare: Witnesses' Account of Xinjiang Riot," Xinhua (Online), 6 July 09; "Victims in Toy Plant Brawl Condemn Xinjiang Riots," Xinhua (Online), 7 July 09. See also analysis in "Xinjiang Authorities Forcefully Suppress Demonstration, Restrict Free Flow of Information," CECC China Human Rights and Rule of Law Update, No. 4, 2009, 2. Different reports have used different systems for telling time in the region. Although the Chinese government uses one time zone throughout China, some reports on events in July 5 refer to local "Urumqi" time, an unofficial time standard that is two hours behind Beijing time. For a report using Urumqi time, see, e.g., "Peaceful Demonstration Meets Suppression" [Tinch shekildiki namayish basturushqa uchrighan], Radio Free Asia (Online), 5 July 09. A limited number of Chinese sources refer to a demonstration on July 5, in addition to "rioting." (See discussion within this subsection.)

[56] Uyghur American Association (Online), "Protest in Urumqi Violently Suppressed by Chinese Government Forces," 5 July 09.

[57] "Peaceful Demonstration Meets Suppression" [Tinch shekildiki namayish basturushqa uchrighan], Radio Free Asia (Online), 5 July 09; "Over 20,000 Police Sent To Quell Xinjiang Unrest," Xinhua (Online), 7 July 09; Edward Wong, "Riots in Western China Amid Ethnic Tension," New York Times (Online), 6 July 09.

[58] "Demonstration Took Place in Urumqi, Turned Into Clash" [Ürümchide namyish [sic] yüz berdi, namayish toqunushqa aylandi], Radio Free Asia, 5 July 09. See discussion within this subsection for official acknowledgement of the use of firearms on July 5.

[59] See, e.g., Edward Wong, "Riots in Western China Amid Ethnic Tension," New York Times (Online), 6 July 09; Tyra Dempster and Mark Chisholm, "China Says 140 Dead in Xinjiang Riot, Blames Separatists," Reuters, reprinted in Yahoo! (Online), 6 July 09; William Foreman, "Armed Mobs Spread Ethnic Strife in China's West," Associated Press, reprinted in Time (Online), 7 July 09. See also "Witnesses Describe Two-Way Violence," Radio Free Asia (Online), 17 July 09.

[60] See, e.g., William Foreman, "Armed Mobs Spread Ethnic Strife in China's West," Associated Press, reprinted in Time (Online), 7 July 09; "Fresh Chaos Erupts in Urumqi," Xinhua (Online), 7 July 09.

[61] William Foreman, "Armed Mobs Spread Ethnic Strife in China's West," Associated Press, reprinted in Time (Online), 7 July 09; "Armed Mobs Throng Urumqi," Radio Free Asia (Online), 7 July 09; Edward Wong, "Fuse of Fear, Lit in China, Has Victims on 2 Sides," New York Times (Online), 12 July 09; Peh Shing Huei, "Brutality Reigns," Straits Times (Online), 9 July 09; "Riots Engulf Chinese Uighur City," BBC (Online), 7 July 09.

[62] See analysis in "Authorities Pledge Crackdown Following Xinjiang Demonstration and Clashes," CECC China Human Rights and Rule of Law Update, No. 4, 2009, 1.

[63] In one English-language Xinhua report in mid-July, XUAR government chairperson Nur Bekri was reported to "[admit] that they had never expected a student parade could turn into such ferocious violence," a seemingly rare official description of events on that day to include mention of a "parade" or demonstration. "Official Says 12 Mobsters in Riot Shot Dead, Xinjiang Confident of Revival," Xinhua, reprinted in People's Daily (Online), 19 July 09. In a Chinese-language Xinhua report, Nur Bekri made reference to people who "took part in the demonstrations but did not take part in beating, smashing, looting, and burning." "Nur Bekri: Criminal Elements Involved in '5 July' Violent Incident Should Be Captured and Brought to Justice by Punishment According to Law as Early as Possible" [Nu'er baikeli: yao jinzao jiang "7–5" baoli shijian fanzui fenzi zhuona gui'an yifa chengzhi], Xinhua, reprinted in Ta Kung Pao (Online), 24 July 09. Information from Xinjiang Medical University, reported in Xinhua, acknowledged that a call was circulating on the Internet for ethnic minority students to gather and "demonstrate" at 8 p.m. on July 5. The report did not describe the announcement as a call to "riot." "Students and Teachers at Xinjiang Medical University Successfully Protect Campus During 'July 5' Incident" [Xinjiang yike daxue shisheng zai '7.5' shijian zhong chenggong shouhu xiaoyuan], Xinhua (Online), 12 July 09. Many early and subsequent Chinese reports have re-

ferred to incidents on July 5 simply as a "riot" or incident of "beating, smashing, looting, and burning," and have not reported that a demonstration took place. See, e.g., sources cited in "Xinjiang Authorities Forcefully Suppress Demonstration, Restrict Free Flow of Information," CECC China Human Rights and Rule of Law Update, No. 4, 2009, 2, and "Authorities Pledge Crackdown Following Xinjiang Demonstration and Clashes," CECC China Human Rights and Rule of Law Update, No. 4, 2009, 1.

[64] See analysis in "Authorities Pledge Crackdown Following Xinjiang Demonstration and Clashes," CECC China Human Rights and Rule of Law Update, No. 4, 2009, 1.

[65] See, e.g., "Xinjiang Party Chief Slashes Riot Which Kills 140," Xinhua (Online), 7 July 09; Ministry of Foreign Affairs (Online), "Foreign Ministry Spokesperson Qin Gang's Regular Press Conference on July 14, 2009," 14 July 09.

[66] "Xinjiang Party Chief Slashes Riot Which Kills 140," Xinhua (Online), 7 July 09; "Police Have Evidence of World Uyghur Congress Masterminding Xinjiang Riot," Xinhua (Online), 7 July 09.

[67] See "Police Have Evidence of World Uyghur Congress Masterminding Xinjiang Riot," Xinhua (Online), 7 July 09; Uyghur American Association (Online), "Statement of Rebiya Kadeer at July 6 Press Conference on Unrest in Urumqi," 6 July 09. At the press conference on July 6, Rebiya Kadeer stated, "I did not organize the protests or call on people to demonstrate. My only contact with any Uyghur inside East Turkestan in recent days was a call I placed to my brother in Urumchi on Saturday evening Washington time, in which I told my brother that my daughters had seen announcements being circulated widely on the Internet regarding plans to demonstrate in Urumchi on Sunday. I urged my brother to stay at home that day, and to ask my other family members to stay at home as well, fearing that they may be subject to violence at the hands of the authorities if they ventured outside. In no way did I call on anyone, at any time, to demonstrate within East Turkestan."

[68] Edward Wong, "China Locks Down Restive Region After Deadly Clashes," New York Times (Online), 6 July 09; "Death Toll in Xinjiang Riot Rises to 156," Xinhua (Online), 7 July 09; Uyghur American Association (Online), "Statement of Rebiya Kadeer at July 6 Press Conference on Unrest in Urumqi," 6 July 09; "Uyghur Area Being Administered Across the Board by Martial Law" [Uyghur élide omumyüzlük herbiy halet yürgüzülmekte], Radio Free Asia (Online), 6 July 09.

[69] Edward Wong, "China Locks Down Restive Region After Deadly Clashes," New York Times (Online), 6 July 09; "Protestors Surround Foreign Reporters in Xinjiang, Official," Xinhua (Online), 7 July 09.

[70] See generally "Xinjiang Authorities Forcefully Suppress Demonstration, Restrict Free Flow of Information," CECC China Human Rights and Rule of Law Update, No. 4, 2009, 2, and "Authorities Pledge Crackdown Following Xinjiang Demonstration and Clashes," CECC China Human Rights and Rule of Law Update, No. 4, 2009, 1, as well as citations that follow.

[71] "Over 20,000 Police Sent To Quell Xinjiang Unrest," Xinhua (Online), 7 July 09. For additional reporting on troop presence, see "31 Cities' Police Units Deployed to Xinjiang After Riot," China Daily (Online), 18 August 09.

[72] "Over 20,000 Police Sent To Quell Xinjiang Unrest," Xinhua (Online), 7 July 09.

[73] "Official Says 12 Mobsters in Riot Shot Dead, Xinjiang Confident of Revival," Xinhua, reprinted in People's Daily (Online), 19 July 09.

[74] See, e.g., Urumqi City People's Government, "Urumqi City Government Urgent Notice on Safeguarding Normal Social Order" [Wulumuqi shi renmin zhengfu guanyu weihu shehui zhengchang zhixu de jinji tonggao], reprinted in Xinhua (Online), 6 July 09; "Traffic Blockade Remains in Some Streets of NW Chinese City," Xinhua (Online), 7 July 09; "Tight Security in Xinjiang," Radio Free Asia (Online), 6 July 09; "Detentions Continue in Urumqi" [Urümchi shehiride tutqun qilish dawamlashmaqta], Radio Free Asia (Online), 6 July 09; "Uyghur Area Being Administered Across the Board by Martial Law" [Uyghur élide omumyüzlük herbiy halet yürgüzülmekte], Radio Free Asia (Online), 6 July 09; "Urumqi Citizens Ordered To Carry ID Documents for Police Inspection," Xinhua (Online), 13 July 09; "Clampdown on Uyghur Cities," Radio Free Asia (Online), 9 July 09; "Urumqi Police Ban Illegal Assembly," Xinhua (Online), 11 July 09; Kathrin Hille, "Xinjiang Widens Crackdown on Uighurs," Financial Times (Online), 19 July 09.

[75] See, e.g., Guo Likun and Li Huizi, "Hu Holds Key Meeting on Xinjiang Riot, Vowing Severe Punishment on Culprits," Xinhua (Online), 9 July 09; "Senior Chinese Leader Calls for 'Tough Measures' To Ensure Stability," Xinhua (Online), 10 July 09. See also "Authorities Pledge Crackdown Following Xinjiang Demonstration and Clashes," CECC China Human Rights and Rule of Law Update, No. 4, 2009, 1.

[76] See analysis in "Xinjiang Authorities Continue Detentions, Announce Arrests Connected to July 5 Incident," Congressional-Executive Commission on China (Online), 14 September 09.

[77] "Xinjiang Authorities Continue Detentions, Announce Arrests Connected to July 5 Incident," Congressional-Executive Commission on China (Online), 14 September 09.

[78] See, e.g., Andrew Jacobs, "Countering Riots, China Rounds Up Hundreds," New York Times (Online), 19 July 09; David Eimer, "As China Reels From 184 Deaths in Urumqi Riots, a Beaten Woman Fears for Her Husband," Telegraph (Online), 11 July 09; "Tight Security in Xinjiang," Radio Free Asia (Online), 6 July 09; Kathrin Hille, "Xinjiang Widens Crackdown on Uighurs," Financial Times (Online), 19 July 09.

[79] "Nur Bekri: Criminal Elements Involved in '5 July' Violent Incident Should Be Captured and Brought to Justice by Punishment According to Law as Early as Possible" [Nu'er baikeli: yao jinzao jiang "7–5" baoli shijian fanzui fenzi zhuona gui'an yifa chengzhi], Xinhua, reprinted in Ta Kung Pao (Online), 24 July 09.

[80] Guo Likun and Li Huizi, "Hu Holds Key Meeting on Xinjiang Riot, Vowing Severe Punishment on Culprits," Xinhua (Online), 9 July 09. See also "Xinjiang Authorities Continue Detentions, Announce Arrests Connected to July 5 Incident," Congressional-Executive Commission on China (Online), 14 September 09.

[81] Wu Yadong, "'July 5 Incident' Allegedly Involved Over 20 Crimes in 5 Categories, Instigators To Be Severely Punished" [She 5 lei fanzui 20 duo xiang zuiming "7–5" shijian zhaoshizhe jiang shou yancheng], Legal Daily (Online), 18 July 09; "Arrests Authorized for First Group of 83 Suspects in Urumqi 'July 5' Incident" [Wulumuqi 7–5 shijian shoupi 83 ming fanzui xianyiren bei pibu], Xinhua (Online), 4 August 09.

[82] See, e.g., "Xinjiang Authorities Forcefully Suppress Demonstration, Restrict Free Flow of Information," CECC China Human Rights and Rule of Law Update, No. 4, 2009, 2. In addition to pinpointing acts of violence specifically to July 5 and official media reporting events on July 7 as a "protest," Wu Shimin, Vice Chairman of the State Ethnic Affairs Commission, appeared to minimize Han acts of violence when he appeared to describe acts of violence committed by Han by stating simply, "[S]ome people in Urumqi, out of indignation of the crimes committed by rioters, or sorrow for the loss of their families, did take to the streets." Ian Johnson, "Beijing's Ethnic Policy Faces Data Challenge," Wall Street Journal (Online), 22 July 09.

[83] See, e.g., Liu Qingxia, Wang Lei, and Chen Yan, "Urumchi Police Capture 190 Criminal Suspects" [Wulumuqi shi jingfang zhuahuo 190 ming fanzui xianyi ren], Urumqi Online, reprinted in Xinhua (Online), 10 July 09; "Mobs in Deadly Xinjiang Violence Subject to Severe Punishment: Official," Xinhua (Online), 7 July 09; "Traffic Blockade Remains in Some Streets of NW Chinese City," Xinhua (Online), 7 July 09; "Xinjiang Police Confirm Over 100 Suspects" [Xinjiang jingfang queren 100 duo ming fanzui xianyi ren], CCTV, reprinted in Chongqing News Net (Online), 10 July 09. See also analysis in "Authorities Pledge Crackdown Following Xinjiang Demonstration and Clashes," CECC China Human Rights and Rule of Law Update, No. 4, 2009, 1.

[84] Edward Wong, "China Warns of Executions as Riots Ebb," New York Times (Online), 8 July 09.

[85] Edward Wong, "China Locks Down Restive Region After Deadly Clashes," New York Times (Online), 6 July 09; William Foreman and Gillian Wong, "Uyghur Women Lead Protests in Restive West China," Associated Press, reprinted in Google (Online), 10 July 09; John Garnaut, "'Release Our Husbands, Free Our Sons,'" The Age (Online), 8 July 09.

[86] PRC Criminal Procedure Law, enacted 1 July 79, effective 1 January 80, amended 17 March 96, effective 1 January 97, arts. 64(2), 71(2).

[87] The Beijing Municipal Judicial Bureau issued a notice on July 8 calling on justice bureaus, the municipal lawyers association, and law offices in Beijing to "exercise caution" in representing cases related to events in the XUAR. The notice specified that before accepting cases, partners in law offices should look into the issue, "report the matter," and "take initiative to accept supervision and direction from judicial organs and the lawyers association." Sources in China reported to Amnesty International that authorities warned some law firms employing human rights lawyers that the lawyers were not to work on cases related to events in the XUAR. The Xinjiang Lawyers Association is also reported to have ordered lawyers not to take cases on their own initiative and instead let authorities "arrange" all defense efforts. Beijing Judicial Bureau Lawyer Work Management Division (Online), "Beijing Judicial Bureau Lawyer Work Management Division's Urgent Notice Regarding Requiring All Lawyers in the City To Be Cautious in Offering Legal Services in the Urumqi 'July 5' Beating, Smashing, Looting, and Burning Serious Violent Criminal Incident" [Beijing shi sifaju lushi gongzuo guanlichu guanyu yaoqiu quanshi lushi shenzhong wei wulumuqi shi '7.5' da za qiang shao yanzhong baoli fanzui shijian tigong falu fuwu de jinji tongzhi], 8 July 09; Amnesty International (Online), "China: Authorities Widen Crackdown After Xinjiang Riots," 10 July 09. See also "Xinjiang Lawyers Told That Authorities Will Make All Legal Arrangements in Relation to July 5 Incident" [Xinjiang lushi zhi 7.5 shijian xiangguan susong you guanfang tongyi anpai], Radio Free Asia (Online), 14 July 09; China Human Rights Lawyers Concern Group (Online), "Concern Over Mainland Lawyers' Freedom To Legal Practice [sic] on Urumqi Protest Cases," 15 July 09.

[88] "Defense Attorneys Free for Riot Suspects," Global Times (Online), 24 July 09.

[89] Ibid.

[90] Mao Yong and Zhou Shengbin, "Suspects, Defendants in Urumqi '7–5' Incident Can Get Legal Aid," Xinhua (Online), 5 August 09.

[91] "Death Toll Increases to 192 in Urumqi '7–5' Incident" [Wulumuqi "7–5" shijian siwang renshu zeng dao 192 ren], Xinhua, reprinted in Sina (Online), 15 July 09.

[92] According to figures released by the Chinese government on July 10—reporting 184 dead as of that date—137 of the dead were Han, 46 were Uyghur, and 1 was Hui. Ariana Eunjung Cha, "Death Toll Debated in China's Rioting," Washington Post (Online), 11 July 09; Edward Wong, "China Raises Death Toll in Ethnic Clashes to 184," New York Times (Online), 11 July 09; Edward Wong, "China Says Its Forces Killed 12 in Xinjiang," New York Times (Online), 20 July 09.

[93] "One Month After 7–5 Incident, Urumqi Spares No Effort in Breaking Up the Haze" [7–5 shijian hou yi yue wulumuqi fenli qusan yinmai], Xinhua (Online), 5 August 09.

[94] "Clampdown on Uyghur Cities," Radio Free Asia (Online), 9 July 09; Peh Shing Huei, "Brutality Reigns," Straits Times (Online), 9 July 09; Edward Wong, "Fuse of Fear, Lit in China, Has Victims on 2 Sides," New York Times (Online), 12 July 09.

[95] "Official: Internet Cut in Xinjiang To Prevent Riot From Spreading," Xinhua (Online), 7 July 09. Authorities also appeared to block nationwide access to the social networking site Twitter and video sharing site YouTube, cut off mobile phone access, remove comments about the protests from Web sites, and filter Internet searches for information. D'Arcy Doran, "Savvy Internet Users Defy China's Censors on Riot," Agence France-Presse, reprinted in Google (Online), 6 July 09; Owen Fletcher and Dan Nystedt, "Internet, Twitter Blocked in China City After Ethnic Riot," IDG News Service, reprinted in PCWorld (Online), 6 July 09; Ben Blanchard, "China Tightens Web Screws After Xinjiang Riot," Reuters, reprinted in Yahoo! (Online), 6 July 09; Chris Hogg, "Incomplete Picture of Xinjiang Unrest," BBC (Online), 6 July 09; Dan Martin, "China Says Web Access Cut Off Due to Riots," Agence France-Presse, reprinted in Inquirer (Online), 7 July 09.

[96] "Defense Attorneys Free for Riot Suspects," Global Times (Online), 24 July 09. Earlier, XUAR government chairperson Nur Bekri announced that the government would soon gradually remove controls over the Internet. "Xinjiang Uyghur Autonomous Regional Government Chairman Says It 'Will Not Be Long' Before the Government Lifts the Internet Control," Xinhua, 18 July 09 (Open Source Center, 19 July 09).

[97] Based on Commission monitoring.

[98] See, e.g., "FM Spokesman: Violence in Urumqi Not a Peaceful Protest," Xinhua (Online), 7 July 09; "Journalists From More Than 60 Overseas Media Come to Urumqi After Riot," Xinhua (Online), 7 July 09; Michael Wines, "In Latest Upheaval, China Applies New Strategies To Control Flow of Information," New York Times (Online), 7 July 09; Gillian Wong, "Tense Western China Looks for Answers After Week of Chaos," Associated Press, reprinted in Maclean's (Online), 11 July 09; "Reporter From Japan Released After Detention in China's Urumqi," Kyodo, reprinted in Japan Today (Online), 11 July 09; "Radio Free Asia Journalist Held in Urumqi Back in Hong Kong," Hong Kong RTHK Radio 3 Online, 12 July 09 (Open Source Center, 12 July 09); Committee to Protect Journalists (Online), "Xinjiang Reporters Detained; Beijing Commentator Missing," 13 July 09; "Foreign Reporters Ordered Out," Agence France-Presse, reprinted in Straits Times (Online), 10 July 09.

[99] Chinese media initially reported that a "mass brawl" broke out after a factory worker upset over not being rehired for a job posted what Xinhua described as a fake rumor on the Internet claiming six men from the XUAR had raped two women at the factory. XUAR government chairperson Nur Bekri later was paraphrased in a Xinhua report as saying the fight was "triggered by the sexual assault of a female Han worker by a Uygur coworker." A report that followed Nur Bekri's comments attributed it to an "unintentional scream" by a Han woman who said she felt scared when a group of Uyghur men she encountered "were unfriendly." A Uyghur factory worker who was an eyewitness to the event reported that Han factory workers instigated the attack when they entered a dormitory for Uyghur workers. "Rumormonger Held Over Guangdong Toy Factory Brawl," Xinhua (Online), 29 June 09; "Civilians and Armed Police Officer Killed in NW China Violence," Xinhua (Online), 6 July 09; "Armed Assailants Stormed Dorms," Radio Free Asia (Online), 5 July 09. Zhou Yan, Wang Pan, and Pan Ying, "'Unintentional Scream' Triggered Xinjiang Riot," Xinhua (Online), 8 July 09.

[100] "Armed Assailants Stormed Dorms," Radio Free Asia (Online), 5 July 09; Kathleen E. McLaughlin, "Fear Grips Shaoguan's Uighurs," Far Eastern Economic Review (Online), 17 July 09.

[101] "Rumormonger Held Over Guangdong Toy Factory Brawl," Xinhua (Online), 29 June 09.

[102] Uyghur American Association (Online), "UAA Condemns Killing of Uyghur Workers at Guangdong Factory," 29 June 09; World Uyghur Congress (Online), "WUC Calls All Uyghur Organizations Around the World To Organize Protests in Front of the Chinese Embassies," 1 July 09.

[103] "15 Suspects Detained Over Factory Fight That Triggered Xinjiang Violence," Xinhua (Online), 7 July 09. In addition, in August, authorities reported detaining Kurban Khayum, "who allegedly spread rumors used to trigger the Urumqi riots on July 5," after he allegedly fabricated the death toll in Shaoguan and gave the information to the World Uyghur Congress (WUC). "Rumormonger of Urumqi Riots Arrested," China Daily (Online), 6 August 09. "'World Uyghur Congress' Informer Inside China Admits Starting Rumor" ["Shi wei hui" jingnei xinxiyuan chengren zaoyao], Beijing Times, reprinted in People's Daily (Online), 6 August 09. The WUC and other people allegedly involved rejected the Chinese account of events. East Turkistan Information Center (Online), "China Is Trying Hard To Tarnish the Media Credibility of Uyghur News Sources," 20 August 09.

[104] Liang Qiwen, "Rape Rumor Led to Brawl, 2 Killed," China Daily (Online), 30 June 09.

[105] For general information on the demonstrations, see, e.g., "China Seeks To Quell Unrest in Far-West City," Reuters, reprinted in New York Times (Online), 3 September 09; Christopher Bodeen, "China Blames Muslim Separatists for Needle Attacks," Associated Press, reprinted in Yahoo! (Online), 4 September 09; "Urumqi Protesters Confront Police Over Syringe Attacks," Xinhua (Online), 4 September 09; "Situation Basically Under Control in Urumqi: Deputy Mayor," Xinhua (Online), 4 September 09; "Protesters Jostle Cops in Urumqi," Xinhua, reprinted in China Daily (Online), 5 September 09; Royston Chan, "China Threatens Punishment for Rumour-Mongering," Reuters (Online), 7 September 09.

[106] "China Seeks To Quell Unrest in Far-West City," Reuters, reprinted in New York Times (Online), 3 September 09; "Situation Basically Under Control in Urumqi: Deputy Mayor," Xinhua (Online), 4 September 09.

[107] For information on the demonstrations, see, e.g., "China Seeks To Quell Unrest in Far-West City," Reuters, reprinted in New York Times (Online), 3 September 09; Christopher Bodeen, "China Blames Muslim Separatists for Needle Attacks," Associated Press, reprinted in Yahoo! (Online), 4 September 09; "Urumqi Protesters Confront Police Over Syringe Attacks," Xinhua (Online), 4 September 09; "Situation Basically Under Control in Urumqi: Deputy Mayor," Xinhua (Online), 4 September 09; "Protesters Jostle Cops in Urumqi," Xinhua, reprinted in China Daily (Online), 5 September 09; Royston Chan, "China Threatens Punishment for Rumour-Mongering," Reuters (Online), 7 September 09.

[108] "Urumqi Issues Circular on 3 September That Aims at Ensuring Sustained Normal Social Order in the City," China News Service, 4 September 09 (Open Source Center, 3 September 09).

[109] "Situation Basically Under Control in Urumqi: Deputy Mayor," Xinhua (Online), 4 September 09.

[110] "China Seeks To Quell Unrest in Far-West City," Reuters, reprinted in New York Times (Online), 3 September 09; Christopher Bodeen, "China Blames Muslim Separatists for Needle Attacks," Associated Press, reprinted in Yahoo! (Online), 4 September 09.

[111] "Tests Find No Infections in Xinjiang Needle Attack Victims," Xinhua (Online), 13 September 09.

[112] See, e.g., "3 Sentenced Over Needle Attacks in Urumqi," Xinhua, reprinted in China Daily (Online), 13 July 09; "Four Sentenced Over Syringe Attack in Urumqi," Xinhua (Online), 17 September 09; Cui Jia and Lei Xiaoxun, "Seven Syringe Attack Groups Arrested," China Daily (Online), 16 September 09.

[113] "Minister of Public Security Meng Jianzhu Goes to Urumqi To Guide Work To Uphold Stability" [Gongan buzhang meng jianzhu fu wulumuqi zhidao weihu wending gongzuo], Xinhua, reprinted in Xinjiang News Net (Online), 7 September 09.

[114] "Protesters Jostle Cops in Urumqi," Xinhua, reprinted in China Daily (Online), 5 September 09.

[115] "Situation Basically Under Control in Urumqi: Deputy Mayor," Xinhua (Online), 4 September 09.

[116] See, e.g., the cases of Nurmemet Yasin, Toxti Tunyaz, and Ekberjan Jamal, mentioned in Controls Over Free Expression and Assembly within this section. Information on these cases is also available in the Congressional-Executive Commission on China Political Prisoner Database.

[117] See full analysis in "State Security Cases From Xinjiang Appear To Surge in 2008," CECC China Human Rights and Rule of Law Update, No. 1, 2009, 3.

[118] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, arts. 102–113.

[119] Nationwide, the number of trials for ESS crimes was 306 in 2007, and within the XUAR, courts are reported to have accepted an average of roughly 150 ESS cases per year between 2003 and 2007. "State Security Cases From Xinjiang Appear To Surge in 2008," CECC China Human Rights and Rule of Law Update, No. 1, 2009, 3. For the original report from XUAR media in January, see "Xinjiang Courts in Total Complete Investigation of 268 Endangering State Security Cases" [Xinjiang fayuan gong shenjie weihai guojia anquan fanzui anjian 268 qi], Xinhua (Online), 10 January 09. According to The Dui Hua Foundation, which has compiled data based on the China Law Yearbook, this figure "[i]ncludes a small number of trials for dereliction of duty by military personnel." The Dui Hua Foundation, "Ten Years of Endangering State Security in China," Dialogue Newsletter, Winter 2009.

[120] In 2007, procuratorates nationwide issued indictments in 231 cases involving 619 people. "State Security Cases From Xinjiang Appear To Surge in 2008," CECC China Human Rights and Rule of Law Update, No. 1, 2009, 3. For the original report from XUAR media on statistics as of November 2008, see "Xinjiang: Strike Hard Against Crimes of Endangering State Security" [Xinjiang: yanda weihai guojia anquan fanzui], Procuratorial Daily, reprinted in Xinhua (Online), 3 January 09. Estimates by The Dui Hua Foundation on the number of indictments nationwide in 2008, based on initial data released by the Chinese government, place the nationwide number at approximately 1,300 individuals. "Chinese State Security Arrests, Indictments Doubled in 2008," Dui Hua Human Rights Journal (Online), 25 March 09.

[121] UN Committee against Torture (Online), "Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture—China," CAT/C/CHN/CO/4, 21 November 08.

[122] Uyghur American Association (Online), "Son of Rebiya Kadeer Sentenced to Nine Years in Prison on Charges of 'Secessionism,'" 17 April 07. See also the Congressional-Executive Commission on China Political Prisoner Database.

[123] Uyghur American Association (Online), "Rebiya Kadeer's Imprisoned Son in Urgent Need of Medical Treatment," 11 December 07; Uyghur Human Rights Project, "Rebiya Kadeer's Son Sentenced to Seven Years; Another Fined; Another Feared Tortured," 27 November 06.

[124] Under Article 34 of the PRC Criminal Procedure Law, "If there is the possibility that the defendant may be sentenced to death and yet he has not entrusted anyone to be his defender, the People's Court shall designate a lawyer that is obligated to provide legal aid to serve as a defender." PRC Criminal Procedure Law, enacted 1 July 79, effective 1 January 80, amended 17 March 96, effective 1 January 97, art. 34.

[125] "China Executes Two for Pre-Olympics Attack in Xinjiang," Reuters (Online), 9 April 09.

[126] "Writer Nurmemet Yasin Punished for Having 'Not Properly Reformed His Views'" [Yazghuchi nurmuhemmet yasingha "idiyisini yaxshi özgertmigenlik" sewebi bilen jaza bérilgen], Radio Free Asia (Online), 17 March 09. For Nowak's account of his 2005 mission to China, see Manfred Nowak, Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Mission to China, 10 March 06.

[127] See the Congressional-Executive Commission on China Political Prisoner Database for more information about Nurmemet Yasin. In addition, see, e.g., "What Is Love? An Essay by Jailed Uyghur Writer Nurmehemmet Yasin," Radio Free Asia (Online), 23 May 06.

[128] Yan Wenlu, "Xinjiang Higher People's Court To Sternly Crack Down on Crimes of the 'Three Forces' in Accordance With the Law," China News Service, 15 August 08 (Open Source Center, 15 August 08).

[129] "Xinjiang: Strike Hard Against Crimes of Endangering State Security" [Xinjiang: yanda weihai guojia anquan fanzui], Procuratorial Daily, reprinted in Xinjiang Peace Net (Online), 4 January 09.

[130] "Xinjiang Procuratorate Launches Anti-Separatism Reeducation Mobilization Meeting, Strengthens Supervision, Conscientiously Shoulders Heavy Responsibility of Upholding Stability" [Xinjiang jiancha jiguan kaizhan fan fenlie douzheng zaijiaoyu huodong dongyuanhui qianghua jiandu qieshi danfuqi weiwen zhongren], Xinjiang Legal Daily (Online), 3 December 08.

[131] Xinjiang Lawyer's Association (Online), "Secretary Yuan's Speech at the Autonomous Region Lawyers Association Seventh Session Second Directors Meeting" [Yuan shuji zai zizhiqu luxie qi jie er ci lishihui shang de jianghua], 23 March 09.

[132] Kashgar District Government (Online), "Poskam County Moves To Build Social Safety Net" [Zepu xian duo jucuo gouzhu shehui anquan wang], 12 March 09.

[133] "Two Levels of Courts in Urumqi Use Post To Promote Stability" [Wulumuqi liang ji fayuan lizu gangwei cu wending], People's Court Daily, reprinted in Xinhua (Online), 25 July 09.

[134] "Xinjiang Legal Aid Lowers Threshhold for Victims of 'July 5' Incident, Financial Investigations Exempted" [Xinjiang fayuan wei '7–5' shijian shouhai qunzhong jiangdi menkan mian jingji shencha], Legal Daily (Online), 23 July 09.

[135] Wang Shulin and Zhao Xinwen, "Meticulously Picking Talent: Problem of Faultline in Xinjiang Courts Makes First Steps at Improvement" [Jingxin linxuan rencai xinjiang faguan duanceng wenti chubu huanjie], Tianshan Net (Online), 7 February 06. See also Pan Congwu and Wu Yadong, "Lack of Ethnic Minority Judges in Xinjiang Basic-Level Courts Especially Prominent" [Xinjiang jiceng fayuan shaoshu minzu faguan buzu youwei tuchu], Legal Daily, reprinted in Xinhua (Online), 22 November 07; Cheng Qian, "Courts Throughout Country To Join Forces To Help Xinjiang" [Quanguo fayuan jiang heli yuan jiang], Tianshan Net (Online), 20 August 07.

[136] For legal bases for use of one's native language in judicial proceedings, see, e.g., PRC Constitution, art. 134; PRC Regional Ethnic Autonomy Law, enacted 31 May 84, effective 1 October 84, amended 28 February 01, art. 47; PRC Criminal Procedure Law, enacted 1 July 79, effective 1 January 80, amended 17 March 96, effective 1 January 97, art. 9; PRC Administrative Procedure Law, enacted 4 April 89, art. 8; PRC Civil Procedure Law, enacted 9 April 91, amended 28 October 07, art. 11; Xinjiang Uyghur Autonomous Region Regulation on Spoken and Written Language Work [Xinjiang weiwu'er zizhiqu yuyan wenzi gongzuo tiaoli], issued 25 September 93, amended 20 September 02, art. 12.

[137] Stanley Toops, "Demographics and Development in Xinjiang After 1949," East-West Center Washington Working Papers No. 1, May 2004, 1.

[138] Tian Yu, "Work Regarding Courts Nationwide Assisting Xinjiang Courts Is Launched" [Quanguo fayuan duikou zhiyuan xinjiang fayuan gongzuo qidong], Xinhua (Online), 14 August 07.

[139] Li Xiaoling, "Xinjiang Actively Constructs Troops of Ethnic Minority Lawyers" [Xinjiang jiji jianshe shaoshu minzu lushi duiwu], Xinhua, reprinted in Tianshan Net (Online), 15 October 07. For information on the number of full- and part-time ethnic minority lawyers in Hoten district, though without information on the language capacities of ethnic minority lawyers, see Hoten District Government (Online), "Ethnic Minority Personnel a Main Force of Legal Profession" [Shaoshu minzu renyuan cheng lushi hangye zhulijun], 22 April 09. For information on conditions within the Ili Kazakh Autonomous Prefecture, see "Xinjiang Uyghur Autonomous Region Sorely Lacks Ethnic Minority Lawyers" [Xinjiang weiwuer zizhiqu shaoshu minzu lushi qique], Uyghur Online (Online), 20 April 07.

[140] "Xinjiang Bilingual Lawyers and Courts Develop With Grace" [Xinjiang shuangyu lushi fating zhan fengcai], Tianshan Net (Online), 19 May 2006.

[141] "Work Regarding Courts Nationwide Assisting Xinjiang Courts Is Launched" [Quanguo fayuan duikou zhiyuan xinjiang fayuan gongzuo qidong], Xinhua (Online), 14 August 07; "Xinjiang Actively Constructs Troops of Ethnic Minority Lawyers" [Xinjiang jiji jianshe shaoshu minzu lushi duiwu], Xinhua, reprinted in Tianshan Net (Online), 15 October 07.

[142] Wen Jing and Jing Dejun, "Two Congresses Observation: Xinjiang Female Lawyer Calls for the Fostering of Ethnic Minority Lawyers and Judges" [Lianghui guancha: xinjiang nu lushi huyu peiyang shaoshu minzu lushi faguan], China National Radio (Online), 8 March 08.

[143] "China Exclusive: More Ethnic Judges, Translators Needed To Cope With Stricter Death Penalty," Xinhua, 13 March 07 (Open Source Center, 13 March 07).

[144] "XUAR People's Congress Standing Committee Translates and Authorizes 204 National Laws" [Zizhiqu renda changweihui fanyi shending guojia falu 204 bu], 3 June 09.

[145] "Our Region's First Ethnic Minority Legal Aid Station Established Yesterday" [Wo qu shou jia shaoshu minzu falu yuanzhu zhan zuo chengli], Xinjiang Legal Daily, reprinted on the Web site of Urumqi Municipal Government (Online), 15 May 09.

[146] "Two Young Uyghurs Detained for Distributing Leaflets Calling for Student Demonstration," CECC China Human Rights and Rule of Law Update, No. 1, 2009, 4.

[147] Xinjiang University (Online), "Xinjiang University Rewards Three Personnel for Meritorious Service of Preventing Distribution of Reactionary Leaflets" [Xinjiang daxue zhongjiang zhizhi sanfa fandong chuandan de sanming yougong renyuan], 25 December 08.

[148] "Two Young Uyghurs Detained for Distributing Leaflets Calling for Student Demonstration," CECC China Human Rights and Rule of Law Update, No. 1, 2009, 4.

[149] Xinjiang University, "Xinjiang University Commends Three Security Personnel, Including Niyazmemet Imam" [Xinjiang daxue longzhong biaozhang niyazi maimaiti yimamu deng sanming bao'an renyuan], 25 December 08.

[150] "Xinjiang Youth Who Fabricated Ethnic Incident on Internet Is Arrested" [Xinjiang yi qingnian wangshang bianzao minzu shiduan beibu], Tianshan Net (Online), 17 March 09; "Man Arrested After Posting Rumors of Ethnic Conflict in NW China," Xinhua, reprinted in China Daily (Online), 17 March 09.

[151] Ibid.

[152] Li Liansi, "Public Security Bureau Commends Units and Individuals That Cracked the Hoten '6–17' Case" [Gong'anbu jiajiang zhenpo hetian "6–17" anjian de danwei he geren], Hoten Peace Net (Online), 3 March 09.

[153] Ibid.

[154] See the Congressional-Executive Commission on China Political Prisoner Database and Uyghur American Association (Online), "Two Uyghurs in Hotan Sentenced to Lengthy Prison Terms for Peaceful Political Expression," 16 March 09.

[155] Ekberjan Jamal's friends gave the recordings to Hong Kong-based Phoenix News and to Radio Free Asia. Ekberjan Jamal later posted on his own Web site the news based on his audio recordings. For more details, see "Youth Jailed for Alleged Separatism," Radio Free Asia (Online), 15 April 09; "Ekberjan Jamal Gets 10 Year Sentence for Conveying Information to Phoenix

News and RFA" [Ekberjan jamal sumrugh téléwiziyisi we erkin asiya radiyosigha uchur yetküzgini üchün 10 yilliq késilgen], Radio Free Asia (Online), 13 April 09; "Ekberjan Jamal's Imprisonment and Current Condition" [Ekberjan jamalning késilishi we uning nöwettiki ehwali], Radio Free Asia (Online), 14 April 09.

[156] "Uyghur Historian Released From Prison," CECC China Human Rights and Rule of Law Update, No. 2, 2009, 3.

[157] For information on Tohti Tunyaz's condition after his release, see "How Is Tohti [Tunyaz's] Life [After Prison] Being Arranged?" [Toxti muzatning kéyinki turmushi qandaq orunlashturulmaqchi?], Radio Free Asia (Online), 17 February 09.

[158] See Criminal Law and Access to Justice within this section for more information.

[159] See the Congressional-Executive Commission on China Political Prisoner Database for more information about Mehbube Ablesh, as well as "Uyghur Radio Worker Sacked, Detained," Radio Free Asia (Online), 8 September 08; "Supplementary Information on Prisoner Mehbube Ablesh" [Tutqun mehbube ablesh heqqide toluqlima melumatlar], Radio Free Asia (Online), 8 September 08; "Uyghur Staff Member in Xinjiang Criticizes Government, Is Arrested" [Xinjiang weizu yuangong piping zhengfu bei jubu], Radio Free Asia (Online), 9 September 08.

[160] The censorship follows the closure of several Web sites during the 2008 Beijing Summer Olympic Games. "Authorities Increase Repression in Xinjiang in Lead-Up to and During Olympics," CECC China Human Rights and Rule of Law Update, November 2008, 4.

[161] Ilham Tohti reported that authorities accused him of separatism. Authorities initially shut down the site in early March, after Ilham Tohti gave an interview criticizing government administration in the XUAR. They again closed down the site later in the month, after Ilham Tohti posted an article criticizing XUAR government chairperson Nur Bekri. The site has since reopened under a new Web address (www.uighurbiz.net). Site last visited 4 September 09. The 2009 closures follow other closures of the site in past years. "Xinjiang Authorities Block, Punish Free Expression," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 3.

[162] Ilham Tohti reported on July 8 that he had received notice that he would be detained, and associates reported his whereabouts unknown after that time. Alexa Olesen, "Chinese Economist Missing, Apparently Detained," Associated Press, reprinted in Washington Post (Online), 9 July 09.

[163] Alexa Olesen, "Chinese Economist Missing, Apparently Detained," Associated Press, reprinted in Washington Post (Online), 9 July 09.

[164] "Uyghur Economist Freed, Warned," Radio Free Asia (Online), 24 August 09.

[165] "Uyghur Online Staff Whereabouts Unknown, Includes CCTV Reporter and CPPCC Member" [Weiwuer zai xian renyuan xialuobuming baokuo yangguang jizhe zheng-xie renyuan], Radio Free Asia (Online), 25 August 09.

[166] While "Sweep Away Pornography and Strike Down Illegal Publications" campaigns targeting a range of materials exist throughout China, authorities in the XUAR target religious and political materials also as part of broader controls in the region over Islamic practice, over other expressions of ethnic identity, especially among the Uyghur population, and over expressions of political dissent. "Xinjiang Government Strengthens Campaign Against Political and Religious Publications," CECC China Human Rights and Rule of Law Update, February 2008, 4.

[167] "Xinjiang Authorities Block, Punish Free Expression," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 3.

[168] Jin Shaobin, "Xinjiang: Persons To Be Assigned Within the Year To Supervise Publishing Markets Near School Grounds" [Xinjiang: xiaoyuan zhoubian chubanwu shichang niannei shixing zhuanren guanli], Tianshan Net (Online), 18 March 09. The article did not report the number of "illegal" religious items confiscated.

[169] Yan Rong, "Our Region To 'Enlarge Establishment' of Cultural Market Combined Law Enforcement Ranks" [Wo qu jiang "kuobian" wenhua shichang zonghe zhifa duiwu], Xinjiang Daily (Online), 2 March 09.

[170] The Chinese expression for this term is *"shuangyu."* Some Chinese government and media reports use quote marks when describing *shuangyu,* a convention retained in the Commission's reporting on the topic. See citations within for Chinese usage of *"shuangyu."*

[171] See, e.g., PRC Constitution, arts. 4, 121, and PRC Regional Ethnic Autonomy Law (REAL), enacted 31 May 84, effective 1 October 84, amended 28 February 01, arts. 10, 21, 37. 2005 Implementing Provisions for the REAL affirm the freedom to use and develop minority languages, but also place emphasis on the use of Mandarin by promoting "bilingual" education and bilingual teaching staff. State Council Provisions on Implementing the PRC Regional Ethnic Autonomy Law (REAL Implementing Provisions) [Guowuyuan shishi "zhonghua renmin gongheguo minzu quyu zizhifa" ruogan guiding], issued 19 May 05, effective 31 May 05, art. 22.

[172] See, e.g., "Xinjiang's First Round of Love My China Ethnic Minority Youth Bilingual Oral Speech Contest Opens" [Xinjiang shoujie ai wo zhonghua shaoshu minzu shao'er shuangyu kouyu dasai qimu], Tianshan Net (Online), 15 September 06; Kashgar District Government (Online), "Love My China Bilingual Speech Contest Enters Semi-Finals" [Ai wo zhonghua shuangyu dasai jinru fusai], 31 October 06; Cui Jia, "Mandarin Lessons in Xinjiang 'Help Fight Terrorism,'" China Daily (Online), 4 June 09.

[173] Cui Jia, "Mandarin Lessons in Xinjiang 'Help Fight Terrorism,'" China Daily (Online), 4 June 09.

[174] See, e.g., "'Bilingual' Policy Reduces Use of Ethnic Minority Languages in Xinjiang Preschools," CECC China Human Rights and Rule of Law Update, March/April 2008, 3; "Xinjiang Official Describes Plan To Expand Use of Mandarin in Minority Schools," CECC China Human Rights and Rule of Law Update, March 2006, 13.

[175] For multiple reports on this figure, see "Number of Xinjiang Students Receiving Mandarin-Focused 'Bilingual' Education Increases," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 4.

[176] In 2006, official media reported the government would invest 430 million yuan (US$59.76 million) over five years to support "bilingual" preschool programs in seven prefectures and would

aim to reach a target rate of over 85 percent of rural ethnic minority children in all counties and municipalities able to enroll in two years of "bilingual" preschool education by 2010. "Xinjiang Makes 5-Year 430 Million Yuan Investment To Develop Rural Preschool 'Bilingual' Education" [Xinjiang 5 nian touru 4.3 yi fazhan nongcun xueqian "shuangyu" jiaoyu], Xinjiang Economic News, reprinted in Tianshan Net (Online), 10 October 06.

[177] "Autonomous Region Program for the Replenishment of Elementary School 'Bilingual' Teachers Is Launched" [Zizhiqu xiaoxue "shuangyu" jiaoshi buchong jihua qidong], Xinjiang Daily (Online), 24 September 08. The figure was reported in early 2009 as 16,000 teachers. "Number of Xinjiang Students Receiving Mandarin-Focused 'Bilingual' Education Increases," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 4, citing "Xinjiang Elementary School 'Bilingual' Teachers To Expand by 16,000" [Xinjiang xiaoxue "shuangyu" jiaoshi jiang kuochong zhi 1.6 wan ren], Tianshan Net (Online), 20 January 09; "16,000 More Bilingual Teachers Trained for Elementary Schools," Xinhua (Online), 2 February 09.

[178] "Xinjiang Enlarges Scope of Special Training Plan for Rural Bilingual Teachers" [Xinjiang kuoda nongcun "shuangyu" jiaoshi tepie jihua guimo], Xinhua (Online), 21 April 09.

[179] Jing Bo, "Our Region Starts Special Training Plan for Rural 'Bilingual' Teachers" [Wo qu qidong nongcun "shuangyu" jiaoshi tepie jihua], Xinjiang Daily (Online), 4 June 09.

[180] Wang Dalin, "Over 10 of Our Country's Colleges To Detail College Students To Support Educational Undertakings at Grassroots Xinjiang Schools" [Wo guo 10 duo suo gaoxiao jiang xuanpai daxuesheng zhijiao xinjiang jiceng xuexiao], Xinhua (Online), 7 November 08.

[181] "573 Junior High Students in Xinjiang Receive Bilingual Preschool Education Teacher Training" [Xinjiang 573 ming chuzhongsheng jieshou xueqian shuangyu jiaoshi peixun], Tianshan Net (Online), 7 October 08.

[182] "Xinjiang Authorities Recruit More Teachers for Mandarin-Focused 'Bilingual' Education," CECC China Human Rights and Rule of Law Update, December 2008, 3. Sustained Commission monitoring of available information on the scope of "bilingual" teacher training provides no indication that monolingual Mandarin-speaking teachers are required to learn a second language, a decision that would be consistent with the Mandarin focus of "bilingual" classes. See sources cited within this section for examples of the focus on non-Han teachers for teacher training.

[183] In addition to sources cited within, see also "'Equality' and Inequality at Kashgar Teacher's College" [Qeshqer pidagogika institutidiki 'teng' we tengsizlikler], Radio Free Asia (Online), 14 May 09.

[184] Xinjiang Education Department (Online), Notice Concerning Soliciting Opinions on "Opinion Concerning the Vigorous and Reliable Promotion of Ethnic Minority Preschool and Elementary and Secondary 'Bilingual' Education Work (Soliciting Opinions)" [Guanyu zhengqiu "guanyu jiji, wentuode tuijin shaoshu minzu xueqian he zhongxiaoxue 'shuangyu' jiaoxue gongzuo de yijian (zhengqiu yijian gao)" yijian de tongzhi], 5 May 08.

[185] Xinjiang Education Department (Online), Notice Concerning Organization and Implementation of 2008 Fall Quarter Secondary and Elementary Ethnic Minority "Bilingual" Teacher Training Project [Guanyu zuzhi shishi 2008 nian qiuji xinjiang zhong xiaoxue shaoshu minzu "shuangyu" jiaoshi peixun gongcheng de tongzhi], 5 June 08.

[186] "Number of Xinjiang Students Receiving Mandarin-Focused 'Bilingual' Education Increases," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 4.

[187] "Xinjiang Bilingual Education Students Increase 50-Fold in 6 Years" [Xinjiang shuangyu xuesheng liu nian zengzhang 50 bei], Xinjiang Economic News, reprinted in Tianshan Net (Online), 31 October 06.

[188] See analysis and compilation of statistics in "Number of Xinjiang Students Receiving Mandarin-Focused 'Bilingual' Education Increases," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 4.

[189] For example, official media reported that 92 percent of ethnic minority elementary school students in Ghulja county, Ili Kazakh Autonomous Prefecture, enrolled in "bilingual" classes or wholly Mandarin schools in the fall semester of 2008. "'Bilingual' Education in Ghulja County Continues To Gain Popularity" [Yining xian "shuangyu" jiaoxue chixu sheng wen], Xinjiang Daily (Online), 2 March 09. In Zepu (Poskam) county, Kashgar district, almost 50 percent of all preschool students were in "bilingual" preschool classes in 2008, while the number of total students receiving wholly Mandarin-centered "bilingual" education was 15.6 percent of the ethnic minority student population. "Innumerable Great Achievements for Poskam County's Bilingual Education Work" [Zepu xian shuangyu jiaoxue gongzuo shuoguoleilei], Xinjiang Peace Net (Online), 20 November 08.

[190] CECC, 2008 Annual Report, 31 October 08, 179.

[191] Ibid.

[192] He also claimed that "bilingual" education in the region equally valued ethnic minority languages and Mandarin, despite evidence of the focus on Mandarin from official sources. CECC, 2008 Annual Report, 31 October 08, 179, citing "Autonomous Region Chair Nur Bekri Responds to Separatists' Attack on Bilingual Education" [Zizhiqu zhuxi nu'er baikeli huiying fenlie fenzi dui shuangyu jiaoyu gongji], Xinjiang Metropolitan News, reprinted in Xinhua (Online), 5 March 08; "'Bilingual' Policy Reduces Use of Ethnic Minority Languages in Xinjiang Preschools," CECC China Human Rights and Rule of Law Update, March/April 2008, 3.

[193] State Council Provisions on Implementing the PRC Regional Ethnic Autonomy Law [Guowuyuan shishi "Zhonghua renmin gongheguo minzu quyu zizhifa" ruogan guiding], issued 19 May 05, effective 31 May 05, art. 29.

[194] According to an official government census, in 1953, Han Chinese constituted 6 percent of the XUAR's population of 4.87 million, while Uyghurs made up 75 percent. In contrast, the 2000 census listed the Han population at 40.57 percent and Uyghurs at 45.21 percent of a total population of 18.46 million. Scholar Stanley Toops has noted that Han migration since the 1950s is responsible for the "bulk" of the XUAR's high population growth in the past half century. Stanley Toops, "Demographics and Development in Xinjiang After 1949," East-West Center Washington Working Papers No. 1, May 2004, 1. On past migration policies see Gardner

Bovingdon, "Heteronomy and Its Discontents," in Governing China's Multiethnic Frontiers, ed. Morris Rossabi (Seattle: University of Washington Press, 2004), 126 (noting, "Between 1950 and 1978, the Party cajoled, induced, or ordered several million Han to move to Xinjiang[.]"). See also "Xinjiang Focuses on Reducing Births in Minority Areas To Curb Population Growth," CECC China Human Rights and Rule of Law Update, April 2006, 15–16; "Xinjiang Reports High Rate of Population Increase," CECC China Human Rights and Rule of Law Update, March 2006, 16–17. For a recent journalistic account, see Andrew Jacobs, "Migrants to China's West Bask in Prosperity," New York Times (Online), 6 August 09.

[195] See, e.g., Calla Wiemer, "The Economy of Xinjiang," in Xinjiang: China's Muslim Borderland, ed. S. Frederick Starr (Armonk, NY: M.E. Sharpe, 2004), 179–180; David Bachman, "Making Xinjiang Safe for the Han?" in Governing China's Multiethnic Frontiers, ed. Morris Rossabi (Seattle: University of Washington Press, 2004), 167–168. For specific information on job discrimination observed in a town in the southern XUAR, see Ildikó Beller-Hann, "Temperamental Neighbors: Uighur-Han Relations in Xinjiang, Northwest China," in Imagined Differences: Hatred and the Construction of Identity, ed. Gunther Schlee (New York: Palgrave, 2002), 65. See also the discussions in Development, as well as Labor Conditions—Discrimination, within this section for additional information, including information on discriminatory job recruitment processes.

[196] Gardner Bovingdon, "Autonomy in Xinjiang: Han Nationalist Imperatives and Uyghur Discontent," East-West Center Washington 2004, Policy Studies 11, 47.

[197] State Ethnic Affairs Commission (Online), "Section 2 Carrying Out in a Deep-Going Way Exchange of Cadres in Ethnic Minority Areas With Central and State Organs as Well as Cadres From Other Areas" [Di er jie minzu diqu ganbu yu zhongyang he guojia jiguan ji qita diqu ganbu jiaoliu shenru kaizhan], 16 December 08; State Administration for Ethnic Affairs (Online), "Important Meaning" [Zhongyao yiyi], 13 July 04; Gardner Bovingdon, "Autonomy in Xinjiang: Han Nationalist Imperatives and Uyghur Discontent," East-West Center Washington 2004, Policy Studies 11, 44.

[198] State Ethnic Affairs Commission (Online), "Section 2 Carrying Out in a Deep-Going Way Exchange of Cadres in Ethnic Minority Areas With Central and State Organs as Well as Cadres From Other Areas" [Di er jie minzu diqu ganbu yu zhongyang he guojia jiguan ji qita diqu ganbu jiaoliu shenru kaizhan], 16 December 08. A report from 2004 noting the same sentiment added that "hostile forces" inside and outside the country have continued "infiltration, destruction, and subversion activities" in border areas, explaining that the government selected large batches of cadres with "good political caliber" and "strong professional qualifications" to settle in these areas. State Administration for Ethnic Affairs (Online), "Important Meaning" [Zhongyao yiyi], 13 July 04.

[199] See generally "Xinjiang Authorities Recruit More Teachers for Mandarin-Focused 'Bilingual' Education," CECC China Human Rights and Rule of Law Update, December 2008, 3.

[200] State Ethnic Affairs Commission (Online), "Xinjiang's Kashgar District Supplements Grassroots Teachers With 17,000 People Within 5 Years" [Xinjiang kashi diqu wunian buchong jiceng jiaoshi 1.7 wan ming], 7 April 09.

[201] "Xinjiang Recruits 9339 Elementary and Secondary School Teachers Nationwide for 'Specially Appointed Posts'" [Xinjiang mianxiang quanguo zhaopin 9339 ming zhong xiaoxue "tejiao"], Tianshan Net (Online), 27 May 09.

[202] "Jeminay Invests 20 Million To Carry Out Herder Settlement" [Jimunai touzi 2000 wan shishi mumin dingju], Ili News Net (Online), 17 April 09. For information on how resettlement of herding populations has affected groups outside the XUAR, see Section II—Ethnic Minorities—Human Rights in the Inner Mongolia Autonomous Region.

[203] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09; "Uyghurs Encountering Obstacles to All Routes To Go on Haj" [Uyghurlarning hejge bérishtiki barliq yolliri tosalghugha uchrimaqta], Radio Free Asia (Online), 6 May 09.

[204] For example, in March, the Xinhe (Toqsu) county government in Aqsu district called for investigating "five types of floating populations": those who come to the region from elsewhere in China, people from the XUAR who go to the interior of China, internal migrants within the XUAR, XUAR residents who leave the country, and non-PRC citizens who come to the XUAR. "Toqsu County Implements 3 Mechanisms To Safeguard Stability, Maintain Social Harmony and Stability" [Xinhe xian luoshi san xiang weiwen jizhi, baochi shehui hexie wending], Aqsu Peace Net (Online), 19 March 09. For other measures to strengthen oversight of "floating populations," see "Aqsu District Comprehensively Launches Floating Population and Room Rental '2-Stroke' Investigation" [Akesu diqu quanmian kaizhan liudong renkou he chuzu fangwu 'liangge' mo pai cha], Xinjiang Peace Net (Online), 16 January 09; Hoten District Government (Online), "Four Measures in Kériyé County Grasp Work on Management of Floating Population" [Yutian xian sixiang cuoshi zhuahao liudong renkou guanli gongzuo], 12 February 09.

[205] Kelly Chan, "Urumqi Acts Against Migrants," South China Morning Post, 10 August 09 (Open Source Center, 10 August 09).

[206] CECC, 2008 Annual Report, 31 October 08, 176.

[207] Ibid.

[208] The Rising Stakes of Refugee Issues in China, Staff Roundtable of the Congressional-Executive Commission on China, 11 April 05, Testimony of Sean R. Roberts, Associate Professor of the Practice of International Affairs, George Washington University.

[209] Aygerim Beysenbayeva, "Refugees Still Face Uncertainty in Kazakstan," Institute for War & Peace Reporting (Online), 5 June 2009.

[210] Omar El Akkad, "Detained Canadian Complains of Illness," Globe and Mail (Online), 13 April 09; UN Committee against Torture (Online), "Written Replies by the Government of the People's Republic of China to the List of Issues (CAT/C/CHN/4) To Be Taken Up in Connection With the Consideration of the Fourth Periodic Report of China (CAT/C/CHN.4)," CAT/C/CHN/

Q/4/Add.1 (Future), 10 September 08, 25–26; Uyghur American Association (Online), "Uyghur Canadian Sentenced to Life on 'Terrorism' Charges," 19 April 07.

[211] See Criminal Law and Access to Justice within this section for more information on the risks of torture in prisons inside China and in the XUAR in particular. Under the Convention against Torture, "No State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture." Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by UN General Assembly resolution 39/46 of 10 December 84, entry into force 26 June 87, art. 3(1).

[212] "Pakistan Hands Over Nine Chinese Militants to Beijing," Karachi Geo TV, 27 April 09 (Open Source Center, 27 April 09); Amir Mir, "10 Terror Suspects Extradited to China," Islamabad The News Online, 6 June 09 (Open Source Center, 6 June 09).

[213] Ibid. The April report described the people as "Chinese militants" in apparent reference to their citizenship but associated the event with the XUAR, where it claimed an "extremists' uprising" took place in 2005.

[214] For examples from past years, see "Xinjiang Focuses on Reducing Births in Minority Areas To Curb Population Growth," CECC China Human Rights and Rule of Law Update, April 2006, 15–16, and "Xinjiang Reports High Rate of Population Increase," CECC China Human Rights and Rule of Law Update, March 2006, 16–17.

[215] "Autonomous Region Population and Family Planning Work Meeting Proposes, Stabilize Birth Rates, Raise Quality of Population" [Zizhiqu renkou he jihua shengyu gongzuo huiyi tichu wending shengyu shuiping tigao renkou suzhi], Xinjiang Daily, 19 January 09. On the predominantly ethnic minority makeup of the southern XUAR, see, e.g., Stanley Toops, "Demographics and Development in Xinjiang After 1949," East-West Center Washington Working Papers No. 1, May 2004, 18, 20–21. The XUAR regulation on population planning allows urban Han Chinese couples to have one child, urban ethnic minority couples and rural Han Chinese couples to have two, and rural ethnic minority couples to have three. Xinjiang Uyghur Autonomous Region Regulation on Population and Family Planning [Xinjiang weiwu'er zizhiqu renkou yu jihua shengyu tiaoli], issued 28 November 02, effective 1 January 03, amended 26 November 04 and 25 May 06, art. 15. While this legislation indicates some flexibility to adapt national legislation to suit "local conditions," as stipulated in the PRC Regional Ethnic Autonomy Law, XUAR residents nonetheless lack the autonomy to choose not to implement any limits at all on childbearing. PRC Regional Ethnic Autonomy Law (REAL), enacted 31 May 84, effective 1 October 84, amended 28 February 01, arts. 4, 44. For information on the limits of the legal framework for autonomy, see, e.g., CECC, 2005 Annual Report, 11 October 05, 15–17. Scholar Gardner Bovingdon discusses the role of population planning requirements within the context of the regional ethnic autonomy system in Gardner Bovingdon, "Autonomy in Xinjiang: Han Nationalist Imperatives and Uyghur Discontent," East-West Center Washington 2004, Policy Studies 11, 26.

[216] "Xinjiang Focuses on Reducing Births in Minority Areas To Curb Population Growth," CECC China Human Rights and Rule of Law Update, April 2006, 15–16.

[217] "Xinjiang Total Population Estimated To Increase to 26.23 Million People by 2025" [Yuji dao 2025 nian xinjiang zongrenkou jiang zengjiadao 2623 wan ren], Xinjiang Peace Net (Online), 6 January 09.

[218] "Authorities Cancel Plans To Subject Uyghur Woman to Forced Abortion (Update)," CECC China Human Rights and Rule of Law Update, November 2008, 3; "New Son for Uyghur Woman," Radio Free Asia (Online), 13 February 09.

[219] An official cited in one report had said Arzigul Tursun "should undergo an abortion" because she violated population planning requirements, a statement that appears to have no basis in law. Article 15 of the XUAR Regulation on Population and Family Planning permits urban ethnic minority couples to give birth to two children and rural couples to give birth to three. Where one member of the couple is an urban resident, urban birth limits apply. According to RFA, although Arzigul Tursun is a rural resident, her husband has urban residency status. Article 41 of the regulation requires those in violation of Article 15 to pay a fine equivalent to a multiple of a locality's average per capita income as a "social compensation fee." The regulation does not stipulate that pregnancies must be terminated if the fee cannot be paid, nor do separate procedures on paying the fees stipulate this. Item 6 of the procedures on paying fees permits people facing economic hardship to apply to stagger payments of the fee. Xinjiang Uyghur Autonomous Region Regulation on Population and Family Planning [Xinjiang weiwu'er zizhiqu renkou yu jihua shengyu tiaoli], issued 28 November 02, effective 1 January 03, amended 26 November 04 and 25 May 06, arts. 15, 41; Xinjiang Uyghur Autonomous Region Social Compensation Fee Collection Procedures [Xinjiang weiwu'er zizhiqu shehui fuyangfei zhengshou chengxu], issued 25 March 03, art. 6.

[220] "Authorities Cancel Plans To Subject Uyghur Woman to Forced Abortion (Update)," CECC China Human Rights and Rule of Law Update, November 2008, 3; "Uyghur Woman Released, Without Forced Abortion," Radio Free Asia (Online), 18 November 08; "New Son for Uyghur Woman," Radio Free Asia (Online), 13 February 09.

[221] Article 39 of the national Population and Family Planning Law and Article 52 of the Xinjiang regulation provide sanctions for government officials who infringe on citizens' rights or abuse their power in carrying out population planning requirements. Xinjiang Uyghur Autonomous Region Regulation on Population and Family Planning [Xinjiang weiwu'er zizhiqu renkou yu jihua shengyu tiaoli], issued 28 November 02, effective 1 January 03, amended 26 November 04 and 25 May 06, art. 52; PRC Population and Family Planning Law, enacted 29 December 01, effective 1 September 02, art. 39.

[222] Calla Wiemer, "The Economy of Xinjiang," in Xinjiang: China's Muslim Borderland, ed. S. Frederick Starr (Armonk, NY: M.E. Sharpe, 2004), 164.

[223] See, e.g., Calla Wiemer, "The Economy of Xinjiang," in Xinjiang: China's Muslim Borderland, ed. S. Frederick Starr (Armonk, NY: M.E. Sharpe, 2004), 188 (noting improvements in transport and communications that have produced "broad benefits" in the region); Gardner

Bovingdon, "Autonomy in Xinjiang: Han Nationalist Imperatives and Uyghur Discontent," East-West Center Washington 2004, Policy Studies 11, 38.

[224] See, e.g., a government statement connecting migration to economic development in State Administration for Ethnic Affairs (Online), "Important Meaning" [Zhongyao yiyi], 13 July 04.

[225] Stanley W. Toops, "The Ecology of Xinjiang: A Focus on Water," in Xinjiang: China's Muslim Borderland, ed. S. Frederick Starr (Armonk, NY: M.E. Sharpe, 2004), 270–271.

[226] Although the Chinese government does not aggregate economic data by ethnic group, scholars who have looked at other indicators have noted that the most prosperous regions in the XUAR are those with majority Han populations. Areas in the XUAR with overwhelmingly ethnic minority populations remain the region's poorest. Calla Wiemer, "The Economy of Xinjiang," in Xinjiang: China's Muslim Borderland, ed. S. Frederick Starr (Armonk, NY: M.E. Sharpe, 2004), 177–180; David Bachman, "Making Xinjiang Safe for the Han?" in Governing China's Multiethnic Frontiers, ed. Morris Rossabi (Seattle: University of Washington Press, 2004), 165–168.

[227] Calla Wiemer, "The Economy of Xinjiang," in Xinjiang: China's Muslim Borderland, ed. S. Frederick Starr (Armonk, NY: M.E. Sharpe, 2004), 179–180; David Bachman, "Making Xinjiang Safe for the Han?" in Governing China's Multiethnic Frontiers, ed. Morris Rossabi (Seattle: University of Washington Press, 2004), 167–168. For specific information on job discrimination observed in a town in the southern XUAR, see Ildikó Beller-Hann, "Temperamental Neighbors: Uighur-Han Relations in Xinjiang, Northwest China," in Imagined Differences: Hatred and the Construction of Identity, ed. Gunther Schlee (New York: Palgrave, 2002), 65. See also the discussion on Labor Conditions—Discrimination in this section for additional information on discriminatory job recruitment processes.

[228] In addition, official media reported that the XUAR government would also receive a US$100 million loan from the Asian Development Bank (ADB) for urban infrastructure improvement, which, according to an ADB official cited by official media, "will generate employment opportunities, and improve urban living standards and the environment for residents in the project cities, particularly for ethnic minorities and the poor." "China's Xinjiang Region To Get 100-mln-dlr Loan From ADB," Xinhua, 1 July 09 (Open Source Center, 1 July 09).

[229] For example, one part of the opinion calls for strengthening implementation of a two-point system to monitor mosques and religious leaders, for continuing to impose political training on religious personnel, and for forbidding "underground" sermonizing and private religious pilgrimages. See further analysis in "Xinjiang Authorities Issue Plan Combining Rural Reform With Continued Political Controls," CECC China Human Rights and Rule of Law Update, No. 1, 2009, 4, and see Xinjiang Uyghur Autonomous Region Communist Party Committee and Government Opinion on Deepening the Promotion of Rural Reform and Development [Zizhiqu dangwei zizhiqu renmin zhengfu guanyu jinyibu tuijin nongcun gaige fazhan de yijian], issued 8 December 08. See points 29 and 30 for specific information on controls over religion and on propaganda campaigns.

[230] See further analysis in "Xinjiang Authorities Issue Plan Combining Rural Reform With Continued Political Controls," CECC China Human Rights and Rule of Law Update, No. 1, 2009, 4, and see Xinjiang Uyghur Autonomous Region Communist Party Committee and Government Opinion on Deepening the Promotion of Rural Reform and Development [Zizhiqu dangwei zizhiqu renmin zhengfu guanyu jinyibu tuijin nongcun gaige fazhan de yijian], issued 8 December 08, point 6.

[231] He Zhanjun, "State To Subsidize 53.4 Billion Yuan in Investment Within 5 Years To Support Accerelated Development of Xinjiang's 3 Southern Districts" [5 niannei guojia jiang buzhu touzi 534 yi yuan zhichi xinjiang nanjiang san di zhou jiakuai fazhan], Xinjiang Peace Net (Online), 4 January 09.

[232] "Xinjiang Plans Free Senior High School Education," China Daily, reprinted in People's Daily (Online), 8 January 09. According to a May report, the proposal is still "under the discussion of the State Council." "Xinjiang Education Efforts Expanding," China Daily, reprinted in People's Daily (Online), 20 May 09.

[233] The job recruitment programs observed by the Commission continue a trend in discriminatory practices in the XUAR reported by the Commission in previous years. In 2006, the Xinjiang Production and Construction Corps recruited 840 civil servants from the XUAR, designating 38 positions for ethnic minorities and reserving the remainder for Han. "Civil Servant Recruitment in Xinjiang Favors Han Chinese," CECC China Human Rights and Rule of Law Update, August 2006, 6. During 2005 civil service recruitment in the XUAR, the government reserved 500 of 700 open positions for Han. "Xinjiang Government Says Ethnic Han Chinese Will Get 500 of 700 New Civil Service Appointments," Congressional-Executive Commission on China (Online), 7 April 05.

[234] See information that follows as well as "Governments in Xinjiang Continue To Sponsor, Sanction Job Recruitment That Discriminates Against Ethnic Minorities," CECC China Human Rights and Rule of Law Update, No. 2, 2009, 3; "Recruitment for State Jobs in Xinjiang Discriminates Against Ethnic Minorities," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 2. See also examples cited in Uyghur American Association (Online), "Uyghurs, Women Need Not Apply for Government Jobs in East Turkestan," 25 June 09.

[235] See information that follows as well as "Governments in Xinjiang Continue To Sponsor, Sanction Job Recruitment That Discriminates Against Ethnic Minorities," CECC China Human Rights and Rule of Law Update, No. 2, 2009, 3; "Recruitment for State Jobs in Xinjiang Discriminates Against Ethnic Minorities," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 2.

[236] Article 4 of the Constitution and Article 9 of the PRC Regional Ethnic Autonomy Law (REAL) forbid discrimination based on ethnicity. Article 12 of the Labor Law and Article 3 of the Employment Promotion Law state that job applicants shall not face discrimination in job hiring based on factors including ethnicity, and Article 28 of the Employment Contract Law states that all ethnicities enjoy equal labor rights. Within this framework of non-discrimination, Article 14 of the Labor Law allows for separate legal stipulations to govern the hiring of ethnic

minorities, and Article 28 of the Employment Promotion Law says that employing units shall give appropriate consideration to ethnic minority workers in job hiring. In addition, Article 22 of the REAL provides that ethnic autonomous government agencies shall give appropriate consideration to ethnic minorities in job hiring. Article 28 of the Implementing Provisions for the REAL also provides that ethnic autonomous areas give appropriate consideration to ethnic minorities in the job hiring process for government positions and includes provisions for their participation in higher levels of government. PRC Constitution, art. 4; PRC Regional Ethnic Autonomy Law (REAL), enacted 31 May 84, effective 1 October 84, amended 28 February 01, arts. 9, 22; State Council Provisions on Implementing the PRC Regional Ethnic Autonomy Law [Guowuyuan shishi "Zhonghua renmin gongheguo minzu quyu zizhifa" ruogan guiding], issued 19 May 05, effective 31 May 05, art. 28; PRC Labor Law, enacted 5 July 94, effective 1 January 95, arts. 12, 14; PRC Employment Promotion Law, enacted 30 August 07, effective 1 January 08, art. 28.

[237] For analysis and to access job recruitment rosters for the XPCC positions, see "Recruitment for State Jobs in Xinjiang Discriminates Against Ethnic Minorities," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 2.

[238] For analysis and to access job recruitment rosters for the teaching positions, see "Recruitment for State Jobs in Xinjiang Discriminates Against Ethnic Minorities," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 2.

[239] For analysis and a link to the recruiting announcement, see "Governments in Xinjiang Continue To Sponsor, Sanction Job Recruitment That Discriminates Against Ethnic Minorities," CECC China Human Rights and Rule of Law Update, No. 2, 2009, 3.

[240] See analysis in "Recruitment for State Jobs in Xinjiang Discriminates Against Ethnic Minorities," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 2, citing, e.g., "Barely 20 Percent of Xinjiang 2009 College Grads Sign Job Contracts, Multiple Measures Ensure Employment" [Xinjiang 2009 nian gaoxiaosheng biyesheng qianyue jin 2 cheng duoxiang cuoshi bao jiuye], Xinhua (Online), 18 May 09. In late March, XUAR government chairperson Nur Bekri stressed prioritizing the employment of university and technical school graduates. "116,000 University and Tech School Grads in Xinjiang Need Employment" [Xinjiang 11.6 wan da zhongzhuan biyesheng jinnian xu jiuye], Tianshan Net (Online), 27 March 09.

[241] Lei Xiaoxun, "Region Vows Job Offers to Fresh Graduates," China Daily, 10 March 09 (Open Source Center, 10 March 09); State Administration for Ethnic Affairs (Online), "Xinjiang Establishes 5 On-Site Learning Employment Bases To Ensure University Students' Employment Rate Is Not Lower Than 70 Percent" [Xinjiang jian 5 ge jiuye jianxi jidi quebao daxuesheng jiuyelu budiyu 70%], 2 March 09. A Communist Party official in Urumqi, referring to a specific program in that city, said, "We will encourage employers to hire ethnic minority students and the government at all levels will arrange positions for them." Lei Xiaoxun, "Region Vows Job Offers to Fresh Graduates," China Daily, 10 March 09 (Open Source Center, 10 March 09).

[242] "Recruitment for State Jobs in Xinjiang Discriminates Against Ethnic Minorities," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 2.

[243] Ariana Eunjung Cha, "China Unrest Tied to Labor Program," Washington Post (Online), 15 July 09..

[244] Andrew Jacobs, "At a Factory, the Spark for China's Violence," New York Times (Online), 16 July 09.

[245] Ariana Eunjung Cha, "China Unrest Tied to Labor Program," Washington Post (Online), 15 July 09.

[246] "Child Labor Alleged at Factory," Radio Free Asia (Online), 12 May 09; "Human Trafficking or Arranging for Work?" [Adem bédikchilikimu yaki ishqa orunlashturushmu?], Radio Free Asia (Online), 20 March 09; "Local Government Authorities Fined Those in 'Surplus Labor Force' Who Fell Ill and Returned Home" [Yerlik hökümet dairiliri aghrip qaytip kelgen 'éshincha emgek küchlirdin' jerimane alghan], Radio Free Asia (Online), 5 March 09.

[247] Ibid.

[248] For information on reports from previous years, see CECC, 2008 Annual Report, 31 October 08, 179, and accompanying footnotes.

[249] See, e.g., A.S. Bhalla and Shufang Qiu, Poverty and Inequality Among Chinese Minorities (London: Routledge, 2006), 139.

[250] "Nuer Bekri Refutes the Allegation That Women of Uyghur Ethnic Group 'Are Forced To Work in the Interior of the Country,'" Xinhua, 18 July 09 (Open Source Center, 20 July 09). For additional background and a muted critique of some aspects of the program in an article written by scholars at the Chinese Academy of Social Sciences, see Feng Jianyong and Adil Aney, "Build a Bridge That Binds Workers of All Hues," China Daily, 2 September 09 (Open Source Center, 2 September 09).

[251] For varying reactions to the program, see, e.g., Ariana Eunjung Cha, "China Unrest Tied to Labor Program," Washington Post (Online), 15 July 09; Kathleen E. McLaughlin, "At a Nike Factory, Uighur Workers Worry," GlobalPost (Online), 13 July 09.

[252] "Nuer Bekri Refutes the Allegation That Women of Uyghur Ethnic Group 'Are Forced To Work in the Interior of the Country,'" Xinhua, 18 July 09 (Open Source Center, 20 July 09).

[253] Overseas reporting has focused on the transfer of rural Uyghur women, and some Chinese reporting also has reported specifically on the transfer of non-Han women or transfer of women from predominantly non-Han areas of the XUAR. Uyghur Human Rights Project (Online), "Deception, Pressure, and Threats: The Transfer of Young Uyghur Women to Eastern China," 8 February 08; "656 Women From Rural Families in Yengisar County Go to Interior To Work and Earn 5.90 Million Yuan" [Yingjisha xian 656 ming nongjia nu fu neidi wugong chuangshou 590 wan yuan], Kashgar Daily, reprinted on the Web site of the Kashgar District Government (Online), 9 March 09; "Ayimgul Feels Left Behind" [Ayimuguli xiang liu xialai], Xinjiang Economic News, reprinted on NetEase (Online), 16 June 07; "Over 5700 Rural Women From Yeken Go Out To Work" [Shache 5700 duo ming nongjia nu waichu wugong], Xinjiang Daily, 17 September 07.

[254] "Xinjiang People's Political Consultative Conference Member Proposes Enlarging Strength of Employment Training Force To Support 'Mobility' of Rural Women" [Xinjiang zhengxie weiyuan jianyi jiada jiuye peixun lidu cunongmuqu nuxing "liudong"], Tianshan Net (Online), 12 January 09.

[255] Ibid.

[256] Xinjiang Uyghur Autonomous Region Communist Party Committee and Government Opinion on Deepening the Promotion of Rural Reform and Development [Zizhiqu dangwei zizhiqu renmin zhengfu guanyu jinyibu tuijin nongcun gaige fazhan de yijian], issued 8 December 08, point 16.

[257] "Resolutely Drive Ahead With Projects for the People's Livelihood for On-the-Spot Labor Transfers and Employment in the Interior" [Jiandingbuyi tuijin jiudi zhuanyi he neidi jiuye zhe xiang minsheng gongsheng], Xinjiang Daily, reprinted in Xinhua (Online), 30 July 09.

[258] The information follows a report from Radio Free Asia in early 2008 that authorities required local residents in the southern XUAR to plant trees and build irrigation works. In addition, 2007 reports from RFA, based on official Chinese sources and on interviews with officials and residents in the XUAR, indicated that during that year, authorities in Yeken (Yarkand, Shache) county required 100,000 farmers to turn uncultivated land into a nut production base. See CECC, 2008 Annual Report, 31 October 08, 180.

[259] "Chinese New Year's Day: A Holiday for the Chinese, Forced Labor for Uyghurs" [Chaghan küni: xitaylar bayramda, uyghurlar hasharda], Radio Free Asia (Online), 28 January 09.

[260] "Turning the Desert Into Oasis—The Sweat and Blood of a Farmer Doing Forced Labor" [Chölni bostan qiliwatqan—hashagha ishlewatqan déhqanning qan teri], Radio Free Asia (Online), 25 March 09; "Uyghur Farmers Continually Being Made To Do Forced Labor" [Uyghur déhqanliri dawamliq hashargha mejburlanmaqta], Radio Free Asia (Online), 26 March 09; "Chinese Authorities Again Impose Forced Labor on Uyghur Farmers in Aqsu" [Xitay hökümiti aqsuda uyghur déhqanlirigha yene hasha qoydi], Radio Free Asia (Online), 25 March 09.

[261] "All Ethnicities in Xinjiang's Aqsu Municipality Busy Planting Trees" [Xinjiang akesu shi ge zu qunzhong zhishu mang], Xinhua (Online), 24 March 09.

[262] Ibid.

[263] "Starting This Fall, Xinjiang Students Attending Compulsory Education Will Not Pick Cotton Again" [Jin qiu qi xinjiang jiu nian yiwu jiaoyu xuesheng buzai shi mianhua], Tianshan Net (Online), 19 September 08. See also analysis in "Xinjiang Work-Study Programs Continue; Cotton-Picking Activities Limited," CECC China Human Rights and Rule of Law Update, December 2008, 4.

[264] Ibid.

[265] See, e.g., Wusu City Letters and Visits Office (Online), "Concerning the Problem of Middle School Students Picking Cotton" [Guanyu chuzhong xuesheng shi mianhua de wenti], 10 October 08, and information in "Xinjiang Work-Study Programs Continue; Cotton-Picking Activities Limited," CECC China Human Rights and Rule of Law Update, December 2008, 4.

[266] "Xinjiang Government Continues Controversial 'Work-Study' Program," CECC China Human Rights and Rule of Law Update, November 2006, 11.

[267] Ibid.

[268] Ibid.

[269] Based on the reports, the number of people affected approaches half of the Kashgar city population. He Xiangyang, Kashgar District Government (Online), "District Launches Meeting To Report on the Comprehensive Administration of Kashgar Old City" [Diqu zhaokai kashi shi laochengqu zonghe zhili xiangmu huibaohui], 13 August 09; Zhu Mingjun, "Kashgar Old City Transformation Project Full Implemented Gross Investment 3 Billion Yuan, Gives Benefit to 51,000 Households and Nearly 200,000 People" [Kashi shi laochengqu gaizao gongcheng quanmin shishi zong touzi 30 yi yuan, huiji 51000 hu jin 20 wan ren], Xinjiang Daily (Online), 27 February 09; Li Jun and Wu Yang, "State and Xinjiang Invest 3 Billion Yuan To Benefit of 220,000 in Kashgar's Old City" [Guojia he xinjiang touru 30 yi yuan fuze 22 wan kashi laocheng baixing], Xinjiang News Net (Online), 27 February 09; Zhao Chunlin, "Central Government and Xinjiang Jointly Invest 3 Billion Yuan in Funds to Transform Kashgar's Old City" [Zhongyang he xinjiang gong toufang 30 yi yuan ju zi gaizao laochengqu], Xinjiang News Net (Online), 27 February 09; "China Contributes 3 Billion To Redo Important Silk Road Site of Kashgar's Old City" [Zhongguo chizi sanshiyi gaizao gu sizhouzhilu zhongzhen kashi laochengqu], China News Net (Online), 28 February 09; Guo Linjun, "Ustang Boyi Neighborhood Committee in Kashgar Launches Pilot Project To Raze Dangerous Old Buildings" [Kashi wusitang boyi jie ban shidianqu weijiufang chaiqian gongzuo qidong], Kashgar Daily, reprinted on Web site of Kashgar District Government (Online), 27 March 09; Hu Xiaorong, "Xinjiang's Kashgar Uses 3 Billion Yuan To Remake Old City, To Backfill 35.9 Kilometers of Tunnels" [Xinjiang kashi 30 yi yuan gaizao laochengqu, jiang huitian 35.9 gongli didao], Yaxin (Online), 23 March 09; Li Huan, "Transformation of Xinjiang Kashgar's Old City Proceeding Smoothly" [Xinjiang kashi laochengqu gaizao jinzhan shunli], Xinhua (Online), 27 May 09; "Transformation of Xinjiang Kashgar's Old City Proceeding Smoothly" [Xinjiang kashi laochengqu gaizao jinzhan shunli], Yaxin (Online), 8 June 09. For detailed information on the project, see generally "Demolition of Kashgar's Old City Draws Concerns Over Cultural Heritage Protection, Population Resettlement," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 2.

[270] He Xiangyang, Kashgar District Government (Online), "District Launches Meeting To Report on the Comprehensive Administration of Kashgar Old City" [Diqu zhaokai kashi shi laochengqu zonghe zhili xiangmu huibaohui], 13 August 09; Hu Xiaorong, "Xinjiang's Kashgar Uses 3 Billion Yuan To Remake Old City, To Backfill 35.9 Kilometers of Tunnels" [Xinjiang kashi 30 yi yuan gaizao laochengqu, jiang huitian 35.9 gongli didao], Yaxin (Online), 23 March 09.

[271] Hu Xiaorong, "Xinjiang's Kashgar Uses 3 Billion Yuan To Remake Old City, To Backfill 35.9 Kilometers of Tunnels" [Xinjiang kashi 30 yi yuan gaizao laochengqu, jiang huitian 35.9 gongli didao], Yaxin (Online), 23 March 09.

[272] For example, one media report said the dangers posed by the buildings also affected factors including "economic development, ethnic unity, and the reinforcement of Xinjiang's borders." Li Jun and Wu Yang, "State and Xinjiang Invest 3 Billion Yuan to Benefit of 220,000 in Kashgar's Old City" [Guojia he xinjiang touru 30 yi yuan fuze 22 wan kashi laocheng baixing], Xinjiang News Net (Online), 27 February 09. See also sources cited within.

[273] He Xiangyang, Kashgar District Government (Online), "District Launches Meeting To Report on the Comprehensive Administration of Kashgar Old City" [Diqu zhaokai kashi shi laochengqu zonghe zhili xiangmu huibaohui], 13 August 09.

[274] For an overview of this meeting, see Uyghur American Association (Online), "Kashgar Demolition Is a 'Serious Political Issue': Official Document Reveals Aggressive Nature of Propaganda Work Used To Enforce Kashgar Resettlement," 26 June 09, citing Kashgar Municipal Government (Online), "Kashgar City Convenes Mobilization Meeting on Comprehensive Administration of Transformation of Dangerous Old Residences in the Old City" [Kashi shi zhaokai lao chengqu wei jiu fang gaizao zonghe zhili dongyuan dahui], 31 May 09.

[275] He Xiangyang, Kashgar District Government (Online), "District Launches Meeting To Report on the Comprehensive Administration of Kashgar Old City" [Diqu zhaokai kashi shi laochengqu zonghe zhili xiangmu huibaohui], 13 August 09.

[276] Ibid. According to the official, "The reconstruction of the Old City must take place under the premise of protecting historical and regional features, but some experts and scholars propose retaining the original appearance of Kashgar's Old City, and we think that [view] is out of touch with reality. . . . Moreover, according to general surveys, buildings in the Old City with real historic preservation value are very few. We'll resolutely protect the buildings with historic preservation value, but we can't take every old and shabby building and keep them all."

[277] Circular Concerning Announcement of Roster of Second Group of National Historic and Cultural Cities [Guanyu qing gongbu di er pi guojia lishi wenhua mingchen mingdan baogao de tongzhi], issued 8 December 86.

[278] Regulation on the Protection of Famous Historic and Cultural Cities, Towns, and Villages [Lishi wenhua mingcheng mingzhen mingcun baohu tiaoli], issued 2 April 08, effective 1 July 08.

[279] See, e.g., article 47(1) of the regulation, discussed in "Demolition of Kashgar's Old City Draws Concerns Over Cultural Heritage Protection, Population Resettlement," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 2, citing Regulation on the Protection of Famous Historic and Cultural Cities, Towns, and Villages [Lishi wenhua mingcheng mingzhen mingcun baohu tiaoli], issued 2 April 08, effective 1 July 08, art. 47(1).

[280] George Michell, Kashgar: Oasis City on China's Old Silk Road (London: Frances Lincoln, 2008), 79.

[281] The report described many of the buildings as more than 400 years old and most individual residences as more than 50 to 80 years old, with some as old as 150 years, which differs from a later report from the Kashgar government dating many houses to the 1950s and 1960s. Cheng Zhiqiang, Kashgar District Government (Online), "Famous City Kashgar Masterpiece" [Mingcheng kashi dashoubi], 27 February 07; Hu Xiaorong, "Xinjiang's Kashgar Uses 3 Billion Yuan To Remake Old City, To Backfill 35.9 Kilometers of Tunnels" [Xinjiang kashi 30 yi yuan gaizao laochengqu, jiang huitian 35.9 gongli didao], Yaxin (Online), 23 March 09. In addition to houses, at least one cornerstone of Islamic architecture in the XUAR, a religious school, was targeted for demolition. Radio Free Asia reported in June that a religious school dating to the first millennium was demolished that month. "Xanliq Madrassa—Level-One Cultural Relic in Kashgar—Is Destroyed" [Qeshqerde 1—derijilik qoghdilidighan medeniy yadikarliq—xanliq medrisi chéqiwétildi], 17 June 09.

[282] See International Council on Monuments and Sites (Online), "Charter for the Conservation of Historic Towns and Urban Areas," October 1987.

[283] See Michael Wines, "To Protect an Ancient City, China Moves To Raze It," New York Times (Online), 27 May 09; Paul Mooney, "China Razes the Cradle of a Culture," National (Online), 3 May 09; "Plan To Destroy Kashgar Old City Meets With Criticism" [Qeshqer kona seherni chéqish pilani tenqidke uchridi], Radio Free Asia (Online), 25 March 09; "Demolition Plan for Kashgar," Radio Free Asia (Online), 2 April 09; Maureen Fan, "An Ancient Culture, Bulldozed Away," Washington Post (Online), 24 March 09; Uyghur American Association (Online), "Uyghur American Association Condemns Demolition of Kashgar Old City," 24 March 09; Kristine Kwok, "Uygurs Upset at Kashgar Revamp," South China Morning Post (Online), 26 March 09; Henryk Szadziewski, "Kashgar's Old City: The Politics of Demolition," openDemocracy (Online), 3 April 09. A report from a Beijing-based non-governmental organization also has expressed concern about historic preservation and raised questions about procedural aspects of the project. Beijing Cultural Heritage Protection Center (Online), "Please Help To Protect Kashgar Old Town," 16 April 09. For additional information, see "Demolition of Kashgar's Old City Draws Concerns Over Cultural Heritage Protection, Population Resettlement," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 2.

[284] "Demolition Plan for Kashgar," Radio Free Asia (Online), 2 April 09.

[285] Paul Mooney, "China Razes the Cradle of a Culture," National (Online), 3 May 09.

[286] Michael Wines, "To Protect an Ancient City, China Moves To Raze It," New York Times (Online), 27 May 09.

[287] See information in "Plan To Destroy Kashgar Old City Meets With Criticism" [Qeshqer kona seherni chéqish pilani tenqidke uchridi], Radio Free Asia (Online), 25 March 09; Maureen Fan, "An Ancient Culture, Bulldozed Away," Washington Post (Online), 24 March 09.

[288] In addition, an older regulation that also addresses takings "has a focus on the advancement of urban development, and as such it does not make the fair process for takings a priority. On the contrary, it has a bias against owners of households." Mo Zhang, "From Public to Private: The Newly Enacted Chinese Property Law and the Protection of Property Rights in China," 5 Berkeley Business Law Journal 360–361 (2008), and PRC Property Law, enacted 16 March 07, effective 1 October 07.

[289] See analysis in "Demolition of Kashgar's Old City Draws Concerns Over Cultural Heritage Protection, Population Resettlement," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 2. See also PRC Regional Ethnic Autonomy Law, enacted 31 May 84, effective 1 October 84, amended 28 February 01, preamble, art. 38; State Council Provisions on Implementing the PRC Regional Ethnic Autonomy Law [Guowuyuan shishi "zhonghua renmin gongheguo minzu quyu zizhifa" ruogan guiding], issued 19 May 05, effective 31 May 05, art. 25.

[290] Michael Wines, "To Protect an Ancient City, China Moves To Raze It," New York Times (Online), 27 May 09.

Notes to Section V—Tibet

[1] When Chinese government and Party officials refer to "Tibet," they generally refer to the area of what is today the Tibet Autonomous Region.

[2] See, e.g., "Top Lawmakers of China, U.S. Meet on Wide-Ranging Issues," Xinhua (Online), 27 May 09. Wu Bangguo, Chairman of the Standing Committee of the National People's Congress (and a member of the Standing Committee of the Politburo of the Central Committee of the Communist Party) told Speaker Nancy Pelosi of the U.S. House of Representatives that "The key to the bilateral relationship lies in respecting and taking care of each other's core interests," and identified "Taiwan and Tibet" as "the most important and sensitive ones."

[3] "Wrong Stance on Tibet Hinders Ties With China," People's Daily, 2 March 09, reprinted in China Daily (Online), 5 March 09. The People's Daily opinion advanced the notion that other countries in the West would find "cooperation" with China "impossible" unless countries "develop an objective and unbiased stance on Tibet."

[4] "Address at the Dinner Marking the 30th Anniversary of the Establishment of China-U.S. Diplomatic Relations Hosted by The Brookings Institution," Prepared Statement of Dai Bingguo, State Councilor of the People's Republic of China, The Brookings Institution (Online), 11 December 08.

[5] "Wrong Stance on Tibet Hinders Ties With China," People's Daily, 2 March 09, reprinted in China Daily (Online), 5 March 09. "With China's status rising on the world stage and contacts deepening with the rest of the world, Western ideas about Tibet are also changing. . . . Relations between China and the rest of the world have experienced a historic transition. China's development is now tied to the world's, while the rest of the world also needs greater cooperation with China."

[6] Ibid. "However, it is impossible for the West to cooperate with China unless it develops an objective and unbiased stance on Tibet."

[7] Guo Jiping, "Mistaken Knowledge About Tibet Runs Contrary to Development, Progress," People's Daily, 2 March 09 (translated in Open Source Center, 3 March 09).

[8] Zhang Haizhou, "The Time Has Come for Country To Set Its Own Rules in Diplomacy," China Daily (Online), 12 March 09. "But the 'China doctrine' is a totally new concept to the international community and in the international relations discipline. So why is China pursuing it? And what principles are at its core? . . . In an earlier interview, China's ambassador to Germany Ma Canrong told me many Westerners still do not understand that Tibet is China's core concern."

[9] Ibid. According to the China Daily article: Yang used the news conference as an opportunity to let the world know the autonomous region is integral to China's core interest. He urged the international community "to not allow the Dalai Lama to visit their countries" and "to not allow him to use their territories to separate Tibet from China." "PRC Foreign Minister Yang Jiechi's News Conference With Chinese and Foreign Media at the Great Hall of the People in Beijing," China Central Television, 7 March 09 (translated in Open Source Center, 10 March 09). According to the transcript, Yang said: "In handling their relations with China, no country in the world should allow Dalai to pay visits or use their territory to engage in separatist activities. That should be within the norms of international relations, not a so-called special favor to China. We simply hope that various countries would do things according to the standards they have established and proclaimed to the outside world, which is to respect the norms of international relations, respect international law, respect China's Constitution, and respect China's law of autonomy in ethnic regions."

[10] See The Crisis in Tibet: Finding a Path to Peace, Hearing of the Committee on Foreign Relations, U.S. Senate, 23 April 08, Written Statement Submitted by Steven Marshall, Senior Advisor, Congressional-Executive Commission on China. "Tibetan protestors, in their widespread calls for Tibetan independence, have provided an unprecedented referendum on China's autonomy system. Weak implementation of the Regional Ethnic Autonomy Law is a principal factor preventing Tibetans from protecting their culture, language, and religion. The Chinese leadership's refusal to recognize the role of Chinese policy in driving Tibetan discontent, and their insistence on blaming the Dalai Lama, puts the leadership in an increasingly risky position."

[11] CECC staff research cannot locate any information indicating that a government maintaining diplomatic relations with China challenges China's sovereignty over the Tibetan areas of China.

[12] Office of the Special Coordinator for Tibetan Issues, U.S. Department of State, Report on Tibet Negotiations, April 2008. The Report is mandated by Section 611 of the Foreign Relations Authorization Act, 2003. "The United States recognizes the Tibet Autonomous Region (TAR) and Tibetan autonomous prefectures and counties in other provinces to be a part of the People's Republic of China. This long-standing policy is consistent with the view of the international community."

[13] A Year After the March 2008 Protests: Is China Promoting Stability in Tibet? Staff Roundtable of the Congressional-Executive Commission on China, 13 March 09, Written Statement of Warren W. Smith, Writer, Radio Free Asia, Tibetan Service.

[14] Austin Ramzy, "Failed Government Policies Sparked Tibet Riots," Time Magazine (Online), 26 May 09. The article refers to the Open Constitution Initiative as "a Beijing-based think tank," and describes OCI as "a six-year-old NGO run by Chinese lawyers. The group focuses

on issues such as last year's tainted milk powder scandal and reform of China's household registration policy, which limits migration from the countryside to cities." Edward Wong, "Report Says Valid Grievances at Root of Tibet Unrest," New York Times (Online), 5 June 09. The article stated that, according to the report, "[The] Tibetan riots and protests of March 2008 were rooted in legitimate grievances brought about by failed government policies—and not through a plot of the Dalai Lama, the exiled Tibetan spiritual leader."

[15] Gongmeng Law Research Center, "An Investigative Report Into the Social and Economic Causes of the 3.14 Incident in Tibetan Areas," Google Docs (Online), translated in International Campaign for Tibet (Online), "Bold Report by Beijing Scholars Reveals Breakdown of China's Tibet Policy," 1 June 09. OCI described "the 3.14 incident," which is not constrained either to Lhasa or to March 14, 2008, in the first sentence of the Foreword: "From March to April of 2008, a series of mass violent incidents occurred in the Lhasa, Gannan [Tib: Kanlho, in Gansu province] and Aba [Tib: Ngaba, in Sichuan province] regions of our country."

[16] "Crush 'Tibet Independence' Forces' Conspiracy, People's Daily Urges," Xinhua, reprinted in People's Daily (Online), 22 March 08. "Evidence shows that the violent incidents were created by the 'Tibet independence' forces and masterminded by the Dalai Lama clique with the vicious intention of undermining the upcoming Olympics and splitting Tibet from the motherland."

[17] Gongmeng Law Research Center, "An Investigative Report Into the Social and Economic Causes of the 3.14 Incident in Tibetan Areas," Google Docs (Online), translated in International Campaign for Tibet (Online), "Bold Report by Beijing Scholars Reveals Breakdown of China's Tibet Policy," 1 June 09. "The 3.14 incident of course had its external causes, such as the political and religious demands from groups of Tibetans in exile overseas, and the influence of the Dalai Lama abroad. However, such a large social contradiction could not have been created solely by external factors; there must have been internal causes, but the news reports gave little detailed consideration to exposing the social roots of these violent incidents."

[18] Although authorities generally refer only to "Lhasa" and only to the date "3.14," some of the violent activity took place in counties adjacent to Lhasa city and under Lhasa municipality administration (e.g., Linzhou (Lhundrub), Dazi (Tagtse), and Duilongdeqin (Toelung Dechen) counties), and some of the violent activity took place on March 15 (e.g., in Dazi county). "Judgments Pronounced Publicly on Some Defendants Involved in Lhasa's '14 March' Incident," Xinhua, 29 April 08 (Open Source Center, 30 April 08). The Xinhua article refers to five monks sentenced for rioting in Dechen township of Duilongdeqing county. "94 Criminal Suspects in Linzhou County Surrender Themselves to Justice," Tibet Daily, 19 March 08 (Open Source Center, 19 March 08). The Tibet Daily article reports the surrender of persons allegedly involved in "serious incidents of beating, smashing, looting, and burning" in Linzhou county. "Tibet Issues Arrest Warrants for 16 Suspects in Riot," Xinhua (Online), 5 April 08. According to the April article in Xinhua, the 16 suspects allegedly took part in a March 15 riot in Dechen township, located in Dazi county.

[19] Edward Wong, "Report Says Valid Grievances at Root of Tibet Unrest," New York Times (Online), 5 June 09.

[20] Gongmeng Law Research Center, "An Investigative Report Into the Social and Economic Causes of the 3.14 Incident in Tibetan Areas," Google Docs (Online), translated in International Campaign for Tibet (Online), "Bold Report by Beijing Scholars Reveals Breakdown of China's Tibet Policy," 1 June 09. For example: the report states that external causes such as "the political and religious demands from groups of Tibetans in exile overseas, and the influence of the Dalai Lama abroad," played a role in the "3.14" incident; the report mentions the Dalai Lama only 3 times and does not introduce the topic of the China-Dalai Lama dialogue; the report refers 29 times to "contradictions" (a vague term Party and government officials use to refer to problems arising from social and economic conditions and policies). The report states that the Party-led system of regional ethnic autonomy is generally successful and utilizes Party terminology in doing so: "Since the establishment of the new China and under the leadership of the Party and government, regional ethnic autonomy has generally been realized in the Tibetan region of Amdo, and the Tibetan people have exercised the right to be their own masters."

[21] Ibid.

[22] Ibid.

[23] "The transmission of Tibetan Buddhism" refers to the Tibetan Buddhist process of identifying and educating Tibetan Buddhist teachers whom Tibetan Buddhists believe are reincarnations of a teacher who passed away. See, e.g., "New Legal Measures Assert Unprecedented Control Over Tibetan Buddhist Reincarnation," Congressional-Executive Commission on China (Online), 22 August 07; State Administration for Religious Affairs, Measures on the Management of the Reincarnation of Living Buddhas in Tibetan Buddhism [Zangchuan fojiao huofo zhuanshi guanli banfa], issued 13 July 07, effective 1 September 07.

[24] A Year After the March 2008 Protests: Is China Promoting Stability in Tibet? Staff Roundtable of the Congressional-Executive Commission on China, 13 March 09, Testimony of Tseten Wangchuk, Senior Research Fellow, Tibet Center, University of Virginia; Senior Editor, Voice of America, Tibetan Language Service.

[25] Gongmeng Law Research Center, "An Investigative Report Into the Social and Economic Causes of the 3.14 Incident in Tibetan Areas," Google Docs (Online), translated in International Campaign for Tibet (Online), "Bold Report by Beijing Scholars Reveals Breakdown of China's Tibet Policy," 1 June 09, Section III, b. The report addresses "the new aristocracy" in the section on "Problems in Power Structures Within Regional Autonomy in Tibetan Areas," and states that such problems "inevitably lead to a high incidence of corruption and dereliction of duty."

[26] A Year After the March 2008 Protests: Is China Promoting Stability in Tibet? Staff Roundtable of the Congressional-Executive Commission on China, 13 March 09, Testimony of Tseten Wangchuk, Senior Research Fellow, Tibet Center, University of Virginia; Senior Editor, Voice of America, Tibetan Language Service.

[27] Edward Wong, "China Shuts Down Office of Volunteer Lawyers," New York Times (Online), 17 July 09; "China v. Civil Society," Wall Street Journal (Online), 21 July 09.

[28] Steven Marshall and Susette Cooke, Tibet Outside the TAR: Control, Exploitation and Assimilation: Development With Chinese Characteristics (Washington DC: self-published CD–ROM, 1997), Table 7. The 13 Tibetan autonomous areas include the provincial-level Tibet Autonomous Region (TAR), with an area of 1.2 million square kilometers (463,320 square miles), as well as 10 Tibetan autonomous prefectures (TAP) and two Tibetan autonomous counties (TAC) located in Qinghai, Gansu, Sichuan, and Yunnan provinces. Qinghai province: Yushu TAP, 197,791 square kilometers (76,367 square miles); Guoluo (Golog) TAP, 78,444 square kilometers (30,287 square miles); Huangnan (Malho) TAP, 17,901 square kilometers (6,912 square miles); Hainan (Tsolho) TAP, 41,634 square kilometers (16,075 square miles); Haibei (Tsojang) TAP, 52,000 square kilometers (20,077 square miles); Haixi (Tsonub) Mongol and Tibetan AP, 325,787 square kilometers (125,786 square miles). Gansu province: Gannan (Kanlho) TAP, 45,000 square kilometers (17,374 square miles); Tianzhu (Pari) TAC, 7,150 square kilometers (2,761 square miles). Sichuan province: Ganzi (Kardze) TAP, 153,870 square kilometers (59,409 square miles); Aba (Ngaba) Tibetan and Qiang AP, 86,639 square kilometers (33,451 square miles); Muli (Mili) TAC, 11,413 square kilometers (4,407 square miles). Yunnan province: Diqing (Dechen) TAP, 23,870 square kilometers (9,216 square miles). The Table provides areas in square kilometers; conversion to square miles uses the formula provided on the Web site of the U.S. Geological Survey (USGS): one square kilometer = 0.3861 square mile. Based on data in the Table, the 10 TAPs and 2 TACs have a total area of approximately 1.04 million square kilometers (402,000 square miles). The TAR and the Tibetan autonomous prefectures and counties are contiguous and total approximately 2.24 million square kilometers (865,000 square miles). Xining city and Haidong prefecture, located in Qinghai province, have a total area of 20,919 square kilometers (8,077 square miles) and are not Tibetan autonomous areas.

[29] Office of the Special Coordinator for Tibetan Issues, U.S. Department of State, Report on Tibet Negotiations, March 2009. The Report is mandated by Section 611 of the Foreign Relations Authorization Act, 2003.

[30] Ibid.

[31] Ibid.

[32] "Memorandum on Genuine Autonomy for the Tibetan People," Tibetan Government-in-Exile (Online), 16 November 08 (hereinafter, Memorandum).

[33] "Dalai Lama Says He Is Loosing Faith on Talks With China," Phayul (Online), 26 October 09. Speaking on October 25, 2008, just before the eighth round of dialogue took place, the Dalai Lama referred to an upcoming November meeting of Tibetans and said, according to the report: "So, in the coming meeting Tibetan people must take serious responsibility to discuss the future course of action on Tibet and find out where what has stalled our dialogue process." "Official: Dalai Lama 'Stubborn in Talks, Not True to His Word,'" Xinhua, reprinted in People's Daily (Online), 26 March 09. According to the article, Zhu Weiqun said the talks were "stuck in a very difficult position." "19th Task Force Meeting Starts in Dharamsala," Tibetan Government-in-Exile (Online), 16 June 09. The article states that the dialogue "came to a standstill."

[34] "China-Dalai Lama Dialogue Round Ends: Party Restates Hard Line, Tibetans Begin Meeting," Congressional-Executive Commission on China (Online), 17 November 08. The report discusses the seventh round of dialogue in July 2008 and the eighth round in November 2008. "Dalai Lama's Envoys To Begin China Visit on May 3," Congressional-Executive Commission on China (Online), 5 May 08. The report lists the first six sessions of dialogue: September 2002, May–June 2003, September 2004, June–July 2005, February 2006, and June–July 2007. All of the rounds of dialogue took place in China except in 2005, when the envoys met their counterparts in Bern, Switzerland.

[35] The Dalai Lama lives in exile near the town Dharamsala, located in the state of Himachal Pradesh, India. The Tibetan government-in-exile is based near the Dalai Lama's residence. Office of His Holiness the Dalai Lama (Online), "Contact," last visited 9 June 09; "CTA Contact Addresses," Tibetan Government-in-Exile (Online), 26 February 08.

[36] The United Front Work Department has functioned as the Dalai Lama's envoys' hosts and interlocutors since formal dialogue resumed in 2002. "Communist Party Adds Tibetan Affairs Bureau to the United Front Work Department," Congressional-Executive Commission on China (Online), 12 September 06. The CECC article describes the United Front Work Department: "The UFWD oversees the implementation of Party policy toward China's eight 'democratic' political parties, ethnic and religious groups, intellectuals, and entrepreneurs, among other functions."

[37] "China-Dalai Lama Dialogue Round Ends: Party Restates Hard Line, Tibetans Begin Meeting," Congressional-Executive Commission on China (Online), 17 November 08; "Statement by Special Envoy of His Holiness the Dalai Lama, Kasur Lodi Gyaltsen Gyari," Tibetan Government-in-Exile (Online), 5 July 08.

[38] The Hui are a Chinese-speaking, principally Muslim ethnic minority.

[39] "Dalai Lama Urged To Truly Not Support 'Tibet Independence,'" Xinhua (Online), 6 November 08.

[40] "Statement of Special Envoy Kasur Lodi Gyari, Head of the Tibetan Delegation, Following the 8th Round of Discussions With Representatives of the Chinese Leadership," Tibetan Government-in-Exile (Online), 6 November 08.

[41] "Memorandum on Genuine Autonomy for the Tibetan People," Tibetan Government-in-Exile (Online), last visited 16 November 08. The Memorandum's original language is: "During the seventh round of talks in Beijing on 1 and 2 July 2008, the Vice Chairman of the Chinese People's Political Consultative Conference and the Minister of the Central United Front Work Department, Mr. Du Qinglin, explicitly invited suggestions from His Holiness the Dalai Lama for the stability and development of Tibet. The Executive Vice Minister of the Central United Front Work Department, Mr. Zhu Weiqun, further said they would like to hear our views on the degree or form of autonomy we are seeking as well as on all aspects of regional autonomy within the scope of the Constitution of the PRC."

[42] Ibid.

[43] "Du Qinglin Meets the Dalai Lama's Personal Representatives and Their Entourage," Xinhua, 6 November 08 (translated in Open Source Center, 7 November 08).
[44] Ibid.
[45] Ibid.
[46] State Council Information Office, "Transcript of PRC State Council Information Office 10 November News Briefing on Contacts and Talks With the Dalai Lama's Private Representatives," 10 November 08 (translated in Open Source Center, 13 November 08). "When we held talks with Gyari and his party, we pointed this out to them first: during the contacts last July, you pledged that you would not have any problem meeting the Central Government's 'four not-support' requirement."
[47] "The Responsible Person of the Central United Front Work Department Answers Xinhua Reporter's Questions on the Recent Contact With Dalai Lama's Personal Representatives," Xinhua, 6 July 08 (Open Source Center, 7 July 08). The "four no supports" directed the Dalai Lama to "give an open and explicit promise and take corresponding actions" that he would give (ordered as in Xinhua) "no support for activities that aimed to disturb and sabotage the Beijing Olympic Games"; "no support for and making no attempt to conspire and incite violent criminal activities"; "no support for and taking earnest steps to check the violent terrorist activities of the 'Tibetan Youth Association'" [Tibetan Youth Congress]; and "no support for any propositions [zhuzhang] or activities that sought to achieve 'Tibet independence' and split the motherland."
[48] "China Demands That the Dalai Lama Fulfill Additional Preconditions to Dialogue," Congressional-Executive Commission on China (Online), 30 July 08.
[49] Ibid. The Dalai Lama has expressed support for the 2008 Beijing Summer Olympic Games; he counsels Tibetans not to engage in violent activity; he does not lead the Tibetan Youth Congress (which does not support the Dalai Lama's Middle Way Approach); he seeks "genuine autonomy," not independence. The Dalai Lama's Special Envoy said in his July 5, 2008, statement that the envoys "categorically rejected the Chinese attempt to label [the TYC] as a violent and terrorist organization."
[50] Ibid.; "Beijing Holds Talks With Dalai's Representatives," Xinhua, reprinted in China Daily (Online), 3 July 08.
[51] State Council Information Office, "Transcript of PRC State Council Information Office 10 November News Briefing on Contacts and Talks With the Dalai Lama's Private Representatives," 10 November 08 (translated in Open Source Center, 13 November 08).
[52] Ibid. Zhu said, "The provisions in the 'Memoranda' concerning 'genuine autonomy' are provisions that attempt to pit the Central Government's centralized leadership against regional national autonomy; attempt to reject, restrict and weaken the Central Government's authority; reject the supreme legislative authority of the National People's Congress; and even attempt to let you people of the secessionist clique revise the Constitution so that you actually can have the rights of an independent country."
[53] Ibid. "The things we talked with them were those about the Dalai Lama's need to completely renounce his secessionist proposition and activities, his plea for the understanding of the Central Government and the people of the country, and his future and the future of some of those by his side. We simply would not discuss with them about any so-called 'Tibet issue.' . . . There are certain things the Dalai Lama can do. Our central government has clearly specified what he can do: truly abandoning his position of dividing the country, stopping his activities of dividing the motherland, openly acknowledging that Tibet is an inalienable part of China, openly acknowledging that Taiwan is an inalienable part of China, and acknowledging that the People's Republic of China is the only legitimate government of China. Then, we may continue to have contacts and talks with him on his personal future."
[54] Ibid. "Creating what you call a Greater Tibetan Autonomous Region simply is unrealistic and absolutely impossible. Now, after more than 20 years, you still want to talk to the central authorities on this issue, albeit in a roundabout way. This specifically shows that you don't even have the minimum sincerity. Now the contacts and talks have made no progress, and you should bear all the responsibilities."
[55] "Text Version of TV Interview With PRC Tibet Affairs Official on CPC-Dalai Talks," Hong Kong Phoenix Net (Fenghuang wang), 23 December 08 (translated in Open Source Center, 25 December 08). "What he seeks is a so-called 'Greater Tibet' that never existed in history. It has no basis either in history or in reality. But in the memorandum, this issue was blatantly brought up to the central government, yet again. They did not give much justification. The only rationale they cited was that they could only safeguard the cultural characteristics and religious faith of the Tibetan nationality by bringing together the Tibetans in all the places where Tibetans live." (According to the transcript, Zhu then sought to discredit the envoys' rationale by asking them why they didn't attempt to gather in a single location all Tibetans living in exile in order to preserve their cultural characteristics.)
[56] "Official: Dalai Lama 'Stubborn in Talks, Not True to His Word,'" Xinhua, reprinted in People's Daily (Online), 26 March 09.
[57] Ibid. "In the July discussions, the Dalai Lama's representatives said they had no problems following the 'four not-to-supports' put forward by the central authorities. . . . But what did they do then? They absolutely forgot to carry out their promise and did not stop boycotting and destroying the Beijing Olympics. Instead, they intensified sabotaging activities and continued to attack the central government." "The Responsible Person of the Central United Front Work Department Answers Xinhua Reporter's Questions on the Recent Contact With Dalai Lama's Personal Representatives," Xinhua, 6 July 08 (Open Source Center, 7 July 08). "During the discussion, Dalai's personal representatives recognized the requirement as a new gist put forward by the central government, and indicated that they would accept the requirement raised by the central government." "Official: Dalai Lama 'Stubborn in Talks, Not True to His Word,'" Xinhua, reprinted in People's Daily (Online), 26 March 09. (Following the July 2008 seventh round of dialogue, Chinese officials characterized as a "promise" the envoys' alleged "acceptance" of the conditions of the "four not supports.") In the interview, Zhu Weiqun said: "They absolutely forgot

to carry out their promise and did not stop boycotting and destroying the Beijing Olympics. Instead, they intensified sabotaging activities and continued to attack the central government. They supported the 'Tibetan Youth Congress' and other organizations to publicly advocate 'Tibetan independence' and fanned or organized violent criminal activities. They also continued to set up a claim to internationalize the Tibet issue, trying to make use of foreigners to press the central government. They continued to collude with such dregs as overseas democracy activists, 'Falun Gong elements' and 'Eastern Turkistan terrorists,' trying to form so-called 'united front work' to oppose the central government and split the motherland." "Chinese Official Urges Dalai Lama To Respond With Sincerity After Recent Contact," Xinhua (Online), 7 July 08. The article states that the "four not supports" are "detailed measures" of the "three stops": "stop activities aimed at splitting China, stop plotting and inciting violence, and stop disrupting and sabotaging the Beijing Olympic Games." (The intent of the "three stops" apparently is to instruct the Dalai Lama to take broad measures to bring about an end to each of the types of activity.)

[58] "Statement by Special Envoy of His Holiness the Dalai Lama, Kasur Lodi Gyaltsen Gyari," Tibetan Government-in-Exile (Online), 5 July 08. "[T]hey are now urging His Holiness not to support violence, terrorism, and sabotaging the Olympics. We stated in the strongest possible terms that no one needs to urge us on this as His Holiness and the Tibetan struggle are universally acknowledged and appreciated for consistently rejecting and opposing such acts. . . . His Holiness has repeatedly and clearly stated publicly he is not seeking separation and independence of Tibet."

[59] Office of His Holiness the Dalai Lama (Online), "Address by H.H. the Dalai Lama to the European Parliament," 4 December 08.

[60] "Interview With the Dalai Lama; Crisis in Pakistan," CNN (Online), 10 May 09.

[61] "Memorandum on Genuine Autonomy for the Tibetan People," Tibetan Government-in-Exile (Online), 16 November 08.

[62] Office of His Holiness the Dalai Lama (Online), "His Holiness's Middle Way Approach for Resolving the Issue of Tibet," last visited 9 June 09.

[63] PRC Regional Ethnic Autonomy Law, enacted 31 May 84, effective 1 October 84, amended 28 February 01, effective same day.

[64] Office of His Holiness the Dalai Lama (Online), "His Holiness's Middle Way Approach for Resolving the Issue of Tibet," last visited 9 June 09.

[65] Ibid. (Numbers added for clarity.) (1) Without seeking independence for Tibet, the Central Tibetan Administration strives for the creation of a political entity comprising the three traditional provinces of Tibet; (2) Such an entity should enjoy a status of genuine national regional autonomy; (3) This autonomy should be governed by the popularly-elected legislature and executive through a democratic process and should have an independent judicial system; (4) As soon as the above status is agreed upon by the Chinese government, Tibet would not seek separation from, and remain within, the People's Republic of China; (5) Until the time Tibet is transformed into a zone of peace and non-violence, the Chinese government can keep a limited number of armed forces in Tibet for its protection; (6) The Central Government of the People's Republic of China has the responsibility for the political aspects of Tibet's international relations and defense, whereas the Tibetan people should manage all other affairs pertaining to Tibet, such as religion and culture, education, economy, health, ecological and environmental protection; (7) The Chinese government should stop its policy of human rights violations in Tibet and the transfer of Chinese population into Tibetan areas; (8) To resolve the issue of Tibet, His Holiness the Dalai Lama shall take the main responsibility of sincerely pursuing negotiations and reconciliation with the Chinese government.

[66] "Memorandum on Genuine Autonomy for the Tibetan People," Tibetan Government-in-Exile (Online), last visited 16 November 08. "In order for the Tibetan nationality to develop and flourish with its distinct identity, culture and spiritual tradition through the exercise of self-government on the above mentioned basic Tibetan needs, the entire community, comprising all the areas currently designated by the PRC as Tibetan autonomous areas, should be under one single administrative entity."

[67] Office of His Holiness the Dalai Lama (Online), "His Holiness's Middle Way Approach for Resolving the Issue of Tibet," last visited 9 June 09. "Without seeking independence for Tibet, the Central Tibetan Administration strives for the creation of a political entity comprising the three traditional provinces of Tibet."

[68] "Tibet at a Glance," Tibetan Government-in-Exile (Online), last visited 9 June 09. "Land Size: 2.5 million square kilometres, which includes U-Tsang, Kham and Amdo provinces."

[69] Steven Marshall and Susette Cooke, Tibet Outside the TAR: Control, Exploitation and Assimilation: Development With Chinese Characteristics (Washington DC: self-published CD–ROM, 1997), Table 7. The total area of the TAR, 10 Tibetan autonomous prefectures, and 2 Tibetan autonomous counties is approximately 2.24 million square kilometers (865,000 square miles). The area that Tibetans claim as Tibet, 2.5 million square kilometers, is approximately 965,000 square miles.

[70] The resulting single area of Tibetan autonomy would include the entire Tibet Autonomous Region, approximately 97 percent of Qinghai province, 52 percent of Sichuan province, 11 percent of Gansu province, and 6 percent of Yunnan province. Steven Marshall and Susette Cooke, Tibet Outside the TAR: Control, Exploitation and Assimilation: Development With Chinese Characteristics (Washington DC: self-published CD–ROM, 1997), Table 7. The only prefectural-level administrative areas in Qinghai province that are not areas of Tibetan autonomy are Xining municipality and Haidong prefecture. Together, Xining municipality and Haidong prefecture make up approximately 21,000 square kilometers. "Provinces and Autonomous Regions," China Internet Information Center, last visited 9 June 09. The area of Qinghai province is approximately 721,200 square kilometers. (Xining municipality and Haidong prefecture make up approximately 3 percent of the area of Qinghai.). Steven Marshall and Susette Cooke, Tibet Outside the TAR: Control, Exploitation and Assimilation: Development With Chinese Characteristics (Washington DC: self-published CD–ROM, 1997), Table 7. Together, the areas of Ganzi

(Kardze) TAP (153,870 square kilometers), Aba (Ngaba) Tibetan and Qiang AP (86,639 square kilometers), and Muli (Mili) TAC (11,413 square kilometers) total approximately 251,800 square kilometers. "Provinces and Autonomous Regions," China Internet Information Center, last visited 27 March 09. The area of Sichuan province is approximately 485,000 square kilometers. (Ganzi TAP, Aba Tibetan and Qiang Autonomous Prefecture, and Muli Tibetan Autonomous County make up approximately 52 percent of Sichuan province.) Steven Marshall and Susette Cooke, Tibet Outside the TAR: Control, Exploitation and Assimilation: Development With Chinese Characteristics (Washington DC: self-published CD–ROM, 1997), Table 7. Together, the areas of Gannan (Kanlho) TAP (45,000 square kilometers) and Tianzhu (Pari) TAC (7,150 square kilometers) total approximately 52,150 square kilometers. "Provinces and Autonomous Regions," China Internet Information Center, last visited 27 March 09. The area of Gansu province is approximately 454,400 square kilometers. (Gannan TAP and Tianzhu TAC make up approximately 11 percent of Gansu province.) The area of Diqing (Dechen) TAP is approximately 23,870 square kilometers. "Provinces and Autonomous Regions," China Internet Information Center, last visited 27 March 09. The area of Yunnan province is approximately 394,000 square kilometers. (Diqing TAP makes up approximately 6 percent of Yunnan province.)

[71] PRC Constitution, passed 4 December 82, effective same day, amended 12 April 88, 29 March 93, 15 April 99, 14 March 04, art. 62(12). The National People's Congress exercises the function and power to "approve the establishment of provinces, autonomous regions, and municipalities directly under the Central Government." PRC Constitution, art. 89(15). The State Council exercises the function and power to "approve the geographic division of provinces, autonomous regions, and municipalities directly under the Central Government, and to approve the establishment and geographic division of autonomous prefectures, counties, autonomous counties, and cities."

[72] A Year After the March 2008 Protests: Is China Promoting Stability in Tibet? Staff Roundtable of the Congressional-Executive Commission on China, 13 March 09. Testimony of Elliot Sperling, Associate Professor, Department of Central Eurasian Studies, Indiana University: "[T]he dialogue process was entered into as a means of dragging it all out, walking a proposal to death, if you will. I'm not against dialogue, people talking, but it was clear, many, many, many years ago that this was not a dialogue that was being entered into sincerely by both parties; rather, on the part of one party it was a tactic to drag things out to irresolution until the Dalai Lama passes away." Testimony of Tseten Wangchuk, Senior Research Fellow, Tibet Center, University of Virginia; Senior Editor, Voice of America, Tibetan Language Service: "I think in many ways I agree with Professor Sperling, that what the Dalai Lama says may not make much difference right now. The reasons, really, that China is not able to come to some sort of a realization about having an alternative policy toward Tibet is, by and large, determined by the Chinese political system right now, by the political atmosphere in China." Testimony of Warren W. Smith, Writer, Radio Free Asia, Tibetan Service: "The answer to Steve's question is no. That will not make any difference, that they have more accurately defined now the territorial limits of what they mean by the Greater Tibetan Autonomous Region. . . . I am glad to see that Dharamsala has clearly defined that at last, but I don't think it's going to make any difference. As everyone else has said, you can see the different reasons that China uses to claim that the Dalai Lama has not met their conditions, and therefore they will not dialogue with him."

[73] "Memorandum on Genuine Autonomy for the Tibetan People," Tibetan Government-in-Exile (Online), last visited 16 November 08.

[74] Ibid.

[75] With respect to the hierarchy of people's congresses, see, e.g., PRC Constitution, arts. 67(8), 104, 116. Article 67 stipulates, "The Standing Committee of the National People's Congress exercises the following functions and powers: . . . (8) To annul those local regulations or decisions of the organs of state power of provinces, autonomous regions and municipalities directly under the Central Government that contravene the Constitution, the statutes or the administrative rules and regulations; . . ." Article 104 states, "The standing committee of a local people's congress at and above the county level . . . 'annuls inappropriate resolutions of the people's congress at the next lower level'; . . ." Article 116 directs that, "People's congresses of national autonomous areas have the power to enact autonomy regulations and specific regulations in the light of the political, economic and cultural characteristics of the nationality or nationalities in the areas concerned. The autonomy regulations and specific regulations of autonomous regions shall be submitted to the Standing Committee of the National People's Congress for approval before they go into effect. Those of autonomous prefectures and counties shall be submitted to the standing committees of the people's congresses of provinces or autonomous regions for approval before they go into effect, and they shall be reported to the Standing Committee of the National People's Congress for the record."

[76] With respect to the hierarchy of governments, see, e.g., PRC Constitution, arts. 89(4, 11, 15), 108. Article 89 states, "The State Council exercises the following functions and powers: . . . (4) To exercise unified leadership over the work of local organs of state administration at different levels throughout the country, and to lay down the detailed division of functions and powers between the Central Government and the organs of state administration of provinces, autonomous regions and municipalities directly under the Central Government; . . . (11) To direct and administer affairs concerning the nationalities and to safeguard the equal rights of minority nationalities and the right of autonomy of the national autonomous areas; . . . (15) To approve the geographic division of provinces, autonomous regions and municipalities directly under the Central Government, and to approve the establishment and geographic division of autonomous prefectures, counties, autonomous counties and cities; . . ." Article 108 stipulates, "Local people's governments at and above the county level direct the work of their subordinate departments and of people's governments at lower levels, and have the power to alter or annul inappropriate decisions of their subordinate departments and people's governments at lower levels."

[77] With respect to the hierarchy of courts, see PRC Constitution, art. 127. "The Supreme People's Court is the highest judicial organ. The Supreme People's Court supervises the administration of justice by the local people's courts at different levels and by the special people's courts; people's courts at higher levels supervise the administration of justice by those at lower levels."

[78] With respect to the hierarchy of procuratorates, see PRC Constitution, art. 132. "The Supreme People's Procuratorate is the highest procuratorial organ. The Supreme People's Procuratorate directs the work of the local people's procuratorates at different levels and of the special people's procuratorates; people's procuratorates at higher levels direct the work of those at lower levels."

[79] See, e.g., PRC Constitution arts. 67(8, 12), 89(4, 11, 15), 104, 108, 115, 116, 127, and 132.

[80] "Tibetan Official: Dalai Lama's Reincarnation Needs Nod From Central Gov't," Xinhua (Online), 12 March 09. Jampa Phuntsog (Xiangba Pingcuo), Chairman of the TAR government, said, "The reincarnation of the Dalai Lama, like that of any Grand Living Buddha, must follow historical conventions and required religious rituals, and, more importantly among the traditions, approval from the central government. If the Dalai Lama does not follow the convention for political or other purposes, I believe his reincarnation would not be acknowledged by religious people in Tibet, and the central government will never approve it."

[81] "Ahead of Sensitive Dates, Lhasa Officials Add 'Strike Hard' to Crackdown," Congressional-Executive Commission on China (Online), 25 February 09. The CECC article lists these dates in February and March 2009: February 25 (Tibet New Year, or Losar), March 10 (the 1st anniversary of the start of Tibetan protests in 2008, and the 50th anniversary of the start of events in 1959 that led to the Dalai Lama's escape into exile), and March 28 (the first observance of "Serfs Emancipation Day," a new TAR holiday commemorating a Chinese government decree that dissolved the Dalai Lama's Lhasa-based Tibetan government).

[82] "Dalai by No Means a Religious Figure, but a Political One: Chinese FM," Xinhua (Online), 7 March 09. Minister Yang Jiechi made his remark at a press conference during the National People's Congress in Beijing.

[83] "Political Plot Under Religious Banner," People's Daily, 18 March 09 (translated in Open Source Center, 16 April 09).

[84] "The Same Tibet but Widely Different Views—An Exclusive Interview With Qiangba Puncog, Chairman of the Tibet Autonomous Regional Government," Xinhua, 13 March 09 (translated in Open Source Center, 15 March 09).

[85] "At the CPC Central Committee Political Bureau's Second Collective Study, Hu Jintao Stresses the Need To Comprehensively Implement the Party's Basic Policy on Religious Work and Actively Do a Good Job in Religious Work Under the New Situation," Xinhua, 19 December 07 (translated in Open Source Center, 20 December 07). Communist Party General Secretary Hu Jintao addressed members of the Political Bureau (Politburo) of the Party's Central Committee and discussed the role of "patriotic religious organizations" in performing the Party's "religious work": "We should bring into play the positive role of patriotic religious organizations, help and guide them to increase their ability of self-cultivation, exercise self-management according to law and regulations, portray the wishes of religious believers, and earnestly protect the legitimate rights and interests of religious circles." "Tibet Leader Speaks on Dalai, Regional Stability," Tibet People's Radio, 27 October 99 (translated in Open Source Center, 27 October 99). Jiabao, Vice Chairman of the TAR government, told "regional leaders" attending the seventh congress of the Tibet Branch of the Buddhist Association of China, "The BAC is a patriotic religious organization under the leadership of the party and the government and is a bridge for linking believers with the party and the government."

[86] PRC Regulation on Religious Affairs (RRA) [Zongjiao shiwu tiaoli], issued 30 November 04, effective 1 March 05, translated on the Web site of China Elections and Governance, art. 6. "The establishment, alteration, or cancellation of registration, of a religious body shall be registered in accordance with the provisions of the Regulations on Registration Administration of Associations. The articles of association of a religious body shall comply with the relevant provisions of the Regulations on Registration Administration of Associations." Tibet Autonomous Region Temporary Measures on the Management of Religious Affairs, issued by the Standing Committee of the Tibet Autonomous Region People's Government on December 9, 1991, art. 15. "The Buddhist Association is a mass organization of personages from religious circles and religious believers, and a bridge for the Party and government to unite and educate personages from religious circles and the believing masses. Its effectiveness shall be vigorously brought into play under the administrative leadership of the government's religious affairs department."

[87] "Tibet Leader Speaks on Dalai, Regional Stability," Tibet People's Radio, 27 October 99 (translated in Open Source Center, 27 October 99). Jiabao, Vice Chairman of the TAR government, told "regional leaders" attending the seventh congress of the Tibet Branch of the Buddhist Association of China, "The BAC is a patriotic religious organization under the leadership of the party and the government and is a bridge for linking believers with the party and the government. . . . Patriotism, unity, and progress constitutes a brilliant policy of the party for guiding people of religious circles and religious believers and also constitutes a political demand from them."

[88] "Dalai Lama Not Invited to World Buddhist Forum in Eastern Chinese City," Xinhua (Online), 27 March 09. Vice President Ming Sheng of the Buddhist Association of China (BAC) explained that the BAC would have invited the Dalai Lama to the forum if the BAC deemed that the Dalai Lama had adequately fulfilled a set of Chinese government political demands: "[Ming Sheng] said the organizers would have considered sending invitation to him, had the 14th Dalai Lama been willing to abandon his 'Tibet independence' claims, stop secessionist activities and publicly avow that Tibet and Taiwan are both inalienable parts of China, and the People's Republic of China is the sole legal government of China."

[89] "Panchen Lama To Attend World Buddhist Forum in Eastern Chinese City," Xinhua (Online), 27 March 09. "The forum, with the theme 'A harmonious world, a synergy of conditions,' was jointly organized by the Buddhist Association of China, the Buddha's Light International

Association, the Hong Kong Buddhist Association, and the China Religious Culture Communication Association."

[90] "Dalai Lama Not Invited to World Buddhist Forum in Eastern Chinese City," Xinhua (Online), 27 March 09.

[91] Ibid. After listing the demands that the Dalai Lama must "abandon his 'Tibet independence' claims, stop secessionist activities and publicly avow that Tibet and Taiwan are both inalienable parts of China, and the People's Republic of China is the sole legal government of China," Meng stated, "It is evident that the precondition doesn't exist for the time being."

[92] "New Panchen Lama Enthroned at Ceremony, 8 December Events Summarized," Xinhua, 8 December 95 (Open Source Center, 8 December 95). The enthronement ceremony in Rikaze (Shigatse) was on December 8, 1995. "The ceremony was jointly presided over and monitored by Li Tieying, the representative of the State Council and a State Councilor, Gyalcan Norbu [Gyaltsen Norbu], special commissioner and chairman of the Tibet Autonomous Regional People's Government, and Ye Xiaowen, special commissioner and director of the State Council's Religious Affairs Bureau." (The Chairman of the TAR government and the boy whom Chinese officials installed as the Panchen Lama were both named Gyaltsen Norbu.)

[93] CECC, 2008 Annual Report, 31 October 08, 189. See, e.g., "The Panchen Lama and the Golden Urn: China's Model for Selecting the Next Dalai Lama" for more information on the Chinese government's supervision of the installation of Gyaltsen Norbu as the Panchen Lama.

[94] "Panchen Lama To Attend World Buddhist Forum in E Chinese City," Xinhua (Online), 27 March 09; "Panchen Lama Says China Enjoys Religious Freedom," Xinhua (Online), 28 March 09. According to the Xinhua article, Gyaltsen Norbu told forum attendees that "China nowadays enjoys social harmony, stability and religious freedom."

[95] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 103 ("organize, plot or carry out the scheme of splitting the State or undermining unity of the country"; "incites others to split the State or undermine unity of the country").

[96] "Revised Tibetan Buddhists Constitution Says No to Separatism," Xinhua (Online), 18 February 09.

[97] Ibid.

[98] See, e.g., Tibet Autonomous Region Implementing Measures for the "Regulation on Religious Affairs" (Trial Measures) [Xizang zizhiqu shishi "zongjiao shiwu tiaoli" banfa (shixing)], issued 19 September 06, effective 1 January 07, art. 3, 46. The second clause of Article 3 requires "religious personnel" (monks and nuns) to "safeguard the unification of the country, ethnic unity, and social stability." The third clause forbids "religious personnel" from carrying out activities that, among other things, "harm national security." Article 46 states that "religious personnel" who violate the third clause of Article 3 may face administrative punishment if the circumstances are not "serious," or criminal proceedings if the circumstances are "serious." (Article 103 of the Criminal Law punishes "inciting" the split of the state. Chinese public security officials, prosecutors, and courts may treat even the possession of a photograph of the Dalai Lama as a separatist crime. See, e.g., "RFA: Three Tibetans, Previously Unknown, Serve Prison Sentences for Dalai Lama Photos, Teachings," Congressional-Executive Commission on China (Online), 26 January 06.)

[99] "Tibet Builds First Buddhism Academy," Xinhua (Online), 18 October 08. Image caption: "A foundation-laying ceremony of Tibetan Buddhism College is held in Lhasa, capital of southwest China's Tibet Autonomous Region, on Oct. 18, 2008. With a total investment of 80 million yuan (about 11 million U.S. dollars) and an area of 17.5 hectares, the college is expected to be the first comprehensive higher educational institution of Tibetan Buddhism in the region."

[100] Ibid. "Its total investment is all from the central government budget."

[101] Ibid. The article reports that "Lobsang Gyaincan" (Lobsang Gyaltsen, or Luosang Jianzan) is the head of the United Front Work Department of the TAR Communist Party Committee. (A Commission staff delegation met in Lhasa in 2003 with Lobsang Gyaltsen when he served as Vice Chairman of the TAR government.)

[102] Ibid.

[103] Ibid. "The first phase of construction will cost about 50 million yuan [US$7.32 million] and is scheduled for completion in 2010. Its design includes a library and buildings for religious activities."

[104] PRC Constitution, passed 4 December 82, effective same day, amended 12 April 88, 29 March 93, 15 April 99, 14 March 04, art. 36. China's Constitution grants Chinese citizens the "freedom of religious belief," not the freedom of religion. The Constitution forbids citizens from using religion to "disrupt public order" or "interfere with the educational system of the state."

[105] "A Reader for Advocating Science and Technology and Doing Away With Superstitions" (translated by International Campaign for Tibet in When the Sky Fell to Earth: The New Crackdown on Buddhism in Tibet, 2004). "Conducting patriotic education among the monks and nuns in the monasteries is an important aspect of strengthening the management of religious affairs by the government. . . . Dalai's bloc has never stopped penetrating and engaging in splittist activities in our region under the support of international antagonistic forces. . . . The monks and nuns should be religious professionals who love the country, love religion, obey the discipline, and abide by the law."

[106] Campaigns at monasteries and nunneries emphasize "legal," "political," and "patriotic" issues. The relative importance and emphasis on legal issues has increased as state regulation of religion has increased.

[107] "Lhasa Area Monks and Nuns Face a New Round of 'Patriotic Education,'" CECC China Human Rights and Rule of Law Update, November 2005, 10; Tibetan Centre for Human Rights and Democracy (Online), "China Recommences 'Patriotic Education' Campaign in Tibet's Monastic Institutions," 13 October 05.

[108] "Tibet Makes All-Round Arrangements for the Work of Maintaining Social Stability," China Tibet News, 19 February 09 (translated in Open Source Center, 21 February 09).

[109] Ibid. According to the article: "Secretary Zhang Qingli of the Tibet Autonomous Regional Party Committee, Vice Minister Zhang Xinfeng of the Public Security Ministry, and Deputy Secretary Zhang Yijiong attended and made important speeches at the teleconference. Legqog [Legchog/Lieque], deputy secretary of the Tibet Autonomous Regional Party Committee and chairman of the standing committee of the regional people's congress, presided over the teleconference."

[110] Ibid.

[111] Official Chinese reports on the number of TAR university-level institutions of learning are inconsistent. Two of the following official sources report that there are four such institutions and two report that there are six. The four official sources name a total of seven university-level institutions. None of the sources list the Tibet Academy of Social Sciences. The seven university-level institutions listed by at least one of the following sources are: Tibet University, Tibet College of Tibetan Medicine, Tibet Ethnic Nationality Institute, Lhasa Teacher Training Academy, Tibet Police Academy, Tibet Technology Institute, and Tibet Institute of Agriculture and Animal Husbandry (listed only in a 2000 Chinese government white paper). A plausible list of the four institutions where students will undergo ideological education may be the four institutions listed on a current English-language Ministry of Education Web page: Ministry of Education (Online), "List of Chinese Higher Education Institutions," last visited 12 June 09. The ministry reports on an English-language Web page that there are four university-level institutions in the TAR: "Tibet University, Tibet University of Traditional Tibet Medical, Tibet Institute for Nationalities, and Tibet Institute of Police Officer." Ministry of Education (Online), "List of Chinese Higher Education Institutions [Quanguo putong gaoxiao mingdan]," last visited 12 June 09. The ministry reports on a Chinese-language page that there are six university-level institutions in the TAR: Tibet University, Tibet College of Tibetan Medicine, Tibet Ethnic Nationality Institute, Lhasa Teacher Training Academy, Tibet Police Academy, and Tibet Technology Institute. State Council Information Office, White Paper on Protection and Development of Tibetan Culture, 25 September 08. The white paper states, "At present, there are . . . six colleges and universities [in the TAR], with students numbering 27,000 and an enrollment rate of 17.4 percent." State Council Information Office, White Paper on The Development of Tibetan Culture (2000), reprinted on the Web site of the National People's Congress, June 2000. "Tibet has now established four universities—the Tibet Ethnic Institute, Tibet Institute of Agriculture and Animal Husbandry, Tibet University, and Tibet College of Tibetan Medicine, with a total enrollment of 5,249." (The NPC Web site omits identification of the State Council Information Office as the white paper's publisher. The China Internet Information Center Web site posts the white paper and identifies the SCIO as the publisher.)

[112] "Tibetan Schools Increase Ideological, Political Education Activities," China Tibet News, 11 June 09 (summarized translation in Open Source Center, 11 June 09).

[113] Ibid.

[114] Ibid.

[115] Ibid.

[116] CECC, 2008 Annual Report, 31 October 08, 199.

[117] "Ahead of Sensitive Dates, Lhasa Officials Add 'Strike Hard' to Crackdown," Congressional-Executive Commission on China (Online), 25 February 09. The Commission article lists sensitive dates in February and March 2009. Among the three dates (February 25, March 10, and March 28), March 10 represents two anniversaries: the 1st anniversary of the start of Tibetan protests in 2008 and the 50th anniversary of the start of events in 1959 that led to the Dalai Lama's escape into exile.

[118] Details are not available about the 505 TAR monasteries and nunneries where officials conducted education campaigns between March 2008 and March 2009. "Religious sites" can refer to places (e.g., temples and hermitages) that are not a monastery or nunnery. Chinese officials have throughout the period 1996 to 2009 stated that in the TAR there are approximately 46,000 monks and nuns and 1,700 "religious sites" for Tibetan Buddhism. State Council Information Office, White Paper on Fifty Years of Democratic Reform in Tibet, Xinhua (Online), 2 March 09. "The freedom of religious belief and normal religious activities of the Tibetan people are protected. Today, there are more than 1,700 religious venues in Tibet, with more than 46,000 resident monks and nuns, which can fully meet the needs of religious believers in Tibet." "Actively Guide Religion To Accommodate Itself to Socialist Society," Tibet Daily, 4 November 96 (translated in Open Source Center, 4 November 96). "Relevant data and statistics show that in 1986, 50 monasteries in Tibet were open, 43 were under renovation but still open, and there were 408 spots for religious activities. At that time, it was planned that 229 monasteries would be renovated and opened, but the actual situation is that in early 1996, there are 1,787 monasteries, which is greater than the total number of towns and townships in the region. There are over 46,000 nuns and monks, outnumbering secondary school students throughout the region."

[119] "China Focus: Legal Education at Tibetan Monasteries Bears Fruits," Xinhua (Online), 9 March 09. Sonam Rigzin (Suolang Renzeng), deputy head of the United Front Work Department of the TAR Communist Party Committee, made the remark.

[120] Tibet Autonomous Region Implementing Measures for the "Regulation on Religious Affairs" (Trial Measures) [Xizang zizhiqu shishi "zongjiao shiwu tiaoli" banfa (shixing)], issued 19 September 06, effective 1 January 07.

[121] State Administration for Religious Affairs, Measures on the Management of the Reincarnation of Living Buddhas in Tibetan Buddhism [Zangchuan fojiao huofo zhuanshi guanli banfa], issued 13 July 07, effective 1 September 07.

[122] "Ten Patriotic, Law-Abiding, and Advanced Monasteries and 36 Patriotic, Law-Abiding, and Advanced Monks and Nuns in Tibet Are Commended," Tibet Daily, 19 February 09 (translated in Open Source Center, 23 February 09).

[123] "Tibetan Political Advisor: Secure Religious Order and Stem Separatism Infiltration," Xinhua (Online), 9 March 09. Pasang Dondrub (Basang Dunzhu) made recommendations including the following: (1) "China should secure the order of Tibetan Buddhism according to law to stem infiltration of 'Tibet independence' separatists"; (2) "Monasteries and nunneries must strengthen their management by setting up or improving regulations, which should be used, along with Buddhism doctrines, to shape behaviors of monks and nuns"; (3) "Nurture patriotism among the religious circle in Tibet and cultivate a team of personages who are 'politically reliable, versed in Buddhism studies and morally admirable'"; and (4) "Law education for religion administrators should also be strengthened to enhance their understanding of the rule of law and their administration capability."

[124] "Zhebang Monastery Launches Assembly for Monks To Establish Peaceful Monastery Work," China Tibet News, 27 May 09 (summarized translation in Open Source Center, 22 June 09). (The Open Source Center summary did not provide any information on the extent of the education campaign that will take place over the October 1, 2009, period. Officials generally conduct such campaigns at what they deem to be appropriate institutions within one or more administrative areas. Because the 60th anniversary of the founding of the People's Republic of China is significant nationwide, it is possible that such education campaigns may take place in Tibetan autonomous areas outside the Tibet Autonomous Region as well as within the TAR.)

[125] Party and government offices sometimes set up "work groups" to assist and advise on various matters. An especially prominent "work group" with respect to Tibetan issues is the Communist Party's "Central Tibet Work Coordination Group." See "Party Congress Promotes Officials Linked to Harsh Policies Toward Tibetans," Congressional-Executive Commission on China (Online), 22 January 08.

[126] "Zhebang Monastery Launches Assembly for Monks To Establish Peaceful Monastery Work," China Tibet News, 27 May 09 (summarized translation in Open Source Center, 22 June 09). According to the Open Source Center summary, which does not state explicitly whether or not the demands Lobsang Dondrub listed are Zhang Qingli's "Four Standards": "Luosang Dunzhu reportedly made four demands regarding peaceful monastery work, including preserving unity of the motherland and opposing ethnic separatism, building a long-term management system within the monastery to resolve problems and eliminate the reactionary influence of the Dalai Clique, increase the patriotic, legal, and political consciousness of every monk, and create an implementation plan at the monastery which includes the organization of all the monks."

[127] Tibet Autonomous Region Implementing Measures for the "Regulation on Religious Affairs" (Trial Measures) [Xizang zizhiqu shishi "zongjiao shiwu tiaoli" banfa (shixing)], issued 19 September 06, effective 1 January 07, art. 43.

[128] PRC Regulation on Religious Affairs (RRA) [Zongjiao shiwu tiaoli], issued 30 November 04, effective 1 March 05, translated on the Web site of China Elections and Governance, art. 6.

[129] "China Focus: Legal Education at Tibetan Monasteries Bears Fruits," Xinhua (Online), 9 March 09. "After the riots, the management sent away about 700 visiting monks back to their home provinces and only the registered 600 stayed on at Drepung. The Sera, another major [monastery] in Lhasa, cleaned out more than 500 visiting monks and lodgers in the post-riots head-count."

[130] The monks were "visiting" Drepung and Sera Monasteries for the purpose of Buddhist study. For centuries, monks from throughout what is today the TAR and the Tibetan areas of Qinghai, Gansu, Sichuan, and Yunnan provinces have engaged in (often advanced) study at the Drepung and Sera.

[131] "China Focus: Legal Education at Tibetan Monasteries Bears Fruits," Xinhua (Online), 9 March 09.

[132] "Tibetan Monks Still Held in Qinghai," Radio Free Asia (Online), 28 August 08. "According to an authoritative source who spoke on condition of anonymity, 675 Tibetan monks from the three targeted monasteries were put on a train from Lhasa on April 25."

[133] Ibid. RFA's source said: "They were transported to a military detention center in Golmud."

[134] International Campaign for Tibet (Online), "A Great Mountain Burned by Fire: China's Crackdown in Tibet," March 2009, 16. The report states, ". . . installations surrounded by uniformed PAP. . . ." (ICT released the report on March 7, 2009. International Campaign for Tibet (Online), "A Great Mountain Burned by Fire: China's Crackdown in Tibet," 7 March 09.)

[135] Ibid.

[136] Edward Wong, "Tibetans Greet New Year in Opposition," New York Times (Online), 25 February 09. According to the article, "About 700 [monks] were sent to a camp in Golmud, in Qinghai, for patriotic education, then ordered to return to their hometowns, said three young monks who were at the camp."

[137] International Campaign for Tibet (Online), "A Great Mountain Burned by Fire: China's Crackdown in Tibet," March 2009, 16. (ICT released the report on March 7, 2009. International Campaign for Tibet (Online), "A Great Mountain Burned by Fire: China's Crackdown in Tibet," 7 March 09.)

[138] "Tibetan Monks Freed From Detention in Golmud," Radio Free Asia (Online), 3 September 08. With respect to monks resident in Sichuan province, the RFA report said: "On Aug. 26, a group of 60 monks detained in Golmud was moved to the Aba area in Sichuan. Officials of the United Front and Religious Affairs Bureau, along with a group of local police, went to Golmud and took charge of the monks belonging to their respective counties. Other monks belonging to different areas in Sichuan were moved in different groups on Aug. 27, 28, and 29 from Golmud under escort by officials from their respective United Front and Religious Affairs Bureaus and the police. The last group of 14 monks was moved on Aug. 29 to the Kardze area from Golmud." Monks resident in Qinghai province were turned over to officials earlier, according to the report, which did not provide specific dates: "Monks originally from Qinghai had been released earlier into the custody of officials from Qinghai's United Front and Religious Affairs Bureau and taken from Golmud into house arrest near their homes."

[139] Ibid. According to an RFA source, "The monks who were held in Golmud had endured beatings and psychological torture. As a result, many became ill and several developed heart problems." For an additional report of abusive treatment of monks under detention, see International Campaign for Tibet (Online), "A Great Mountain Burned by Fire: China's Crackdown in Tibet," March 2009, 17. (ICT released the report on March 7, 2009. International Campaign for Tibet (Online), "A Great Mountain Burned by Fire: China's Crackdown in Tibet," March 2009.) In a February 3, 2009, blog entry, Tibetan writer Woeser (Oezer, Weise) reported that an unnamed monk "simply couldn't bear it any longer. He started banging his head against the wall and then jumped from the window when he was taken to hospital. He broke several bones and is deaf in one ear."

[140] The Chinese government does not permit Tibetan Buddhists in China to treat as a legitimate religious figure Gedun Choekyi Nyima, the boy the Dalai Lama recognized as the Panchen Lama in May 1995. The Chinese State Council declared the Dalai Lama's recognition of Gedun Choekyi Nyima "illegal and invalid" and supervised the selection and installation of another boy, Gyaltsen Norbu, as the Panchen Lama. "It Is Both Illegal and Invalid for the Dalai Lama To Universally Identify the Reincarnated Soul Boy of the Panchen Lama," People's Daily, 1 December 95 (Open Source Center, 1 December 95); "New Panchen Lama Enthroned at Ceremony, 8 December Events Summarized," Xinhua, 8 December 95 (Open Source Center, 8 December 95). The enthronement ceremony in Rikaze (Shigatse) was on December 8, 1995. "The ceremony was jointly presided over and monitored by Li Tieying, the representative of the State Council and a State Councilor, Gyalcan Norbu [Gyaltsen Norbu], special commissioner and chairman of the Tibet Autonomous Regional People's Government, and Ye Xiaowen, special commissioner and director of the State Council's Religious Affairs Bureau." (The Chairman of the TAR government and the boy whom Chinese officials installed as the Panchen Lama were both named Gyaltsen Norbu.)

[141] "Tibetan Official: Dalai Lama's Reincarnation Needs Nod From Central Gov't," Xinhua (Online), 12 March 09.

[142] A November 1995 broadcast by Communist Party-operated Tibet People's Radio provided questions and answers outlining the government position on the Dalai Lama's recognition of Gedun Choekyi Nyima as the Panchen Lama. Two of the questions asked why the Dalai Lama's action was "illegal." The first answer focused on the Chinese government's view of Tibetan Buddhist religious processes and historical tradition; the second answer focused on China's sovereignty over Tibet. The first answer stated that "the search for and confirmation of the Panchen's reincarnation must proceed according to religious rituals and historical norms" which include, among other things, "drawing lots from the golden urn, and submitting the results to the central government for approval." The second response was short and indicates that failure to accept the Chinese government's role in approving reincarnations is deemed to be a rejection of China's sovereignty over "Tibet" (therefore, a potentially criminal act under Article 103 of the Criminal Law): "Tibet is an inalienable part of China. Since the Yuan dynasty [1271 to 1368], Tibet's local administrative systems have been set up by the central government and its political and religious leaders could not exercise their authority if they were not appointed by the central government." "Questions and Answers Regarding the Reincarnated Child of the 10th Panchen" compiled by the Tibet Autonomous Regional Nationalities and Religious Affairs Commission, Tibet People's Radio Network, 4 November 95 (translated in Open Source Center, 4 November 95).

[143] P. Jeffrey Hopkins, "The Identification of the Eleventh Panchen Lama," University of Virginia, Center for South Asian Studies Newsletter, Fall 1995. "May 14, 1995. After extensive analysis of over thirty children is performed, four prophecies are consulted from oracles, and nine divinations including the dough-ball ritual are performed, the Dalai Lama formally recognizes a six-year-old boy, Dedhun [Gedun] Choekyi Nyima, born on April 25, 1989, in the Lhari District of Nagchu, Tibet, as the eleventh Panchen Lama."

[144] CECC Staff Interview, September 2003. A Chinese judicial official explained that a photograph of Gedun Choekyi Nyima is illegal because the Chinese government had already approved a legal Panchen Lama (Gyaltsen Norbu). Disseminating photos of an illegal Panchen Lama can endanger the sovereignty and unity of the country, and aims to split the country.

[145] U.S. Commission on International Religious Freedom, Annual Report of the U.S. Commission on International Religious Freedom, May 2009, 79. "The Chinese government continues to deny repeated international requests for access to 19-year-old Gedhun Choekyi Nyima, whom the Dalai Lama designated as the 11th Panchen Lama when he was six years old. No one has seen him since, nor have any independent or transparent interviews taken place. While he is a 'disappeared' person, government officials claim that he is in fact alive and well and being 'held for his own safety.'"

[146] Gedun Choekyi Nyima's date of birth is April 25, 1989. International Campaign for Tibet (Online), "The Panchen Lama's 17th Birthday: More Control of Religion in Tibet, Ban on Prayer-Flags in One Tibetan Area," 25 April 06. The ICT states that April 25, 2006, was Gedun Choekyi Nyima's 17th birthday.

[147] P. Jeffrey Hopkins, "The Identification of the Eleventh Panchen Lama," University of Virginia, Center for South Asian Studies Newsletter, Fall 1995. The chronology entry for May 21, 1995, includes this statement: "The boy and his family, as well as two other children who were leading candidates, have disappeared and are reported to have been removed to Beijing." (For more information, see CECC, 2008 Annual Report, Section V on Tibet, "The Panchen Lama and the Golden Urn: China's Model for Selection the Next Dalai Lama," 31 October 08, 189.)

[148] "At the Symposium on the 50th Anniversary of Tibet Nationalities Institute, Zhang Qingli Emphasized Implementing the Strategy of Rejuvenating Tibet Through Science, Education and Employment of Talented Personnel, and Working Hard To Carry Out Education to the People's Satisfaction," Tibet Daily, 6 October 08 (translated in Open Source Center, 28 October 08). Zhang Qingli, Secretary of the Communist Party Committee of the Tibet Autonomous Region, emphasized Party leadership in developing Tibet in an October 2008 speech: "Through its devel-

opment in the previous more than half a century, education in Tibet had formed its own system, made remarkable achievements, and realized a historical leap forward. Facts had strongly proved that, only under the leadership of the CPC, in the arms of the big family of the motherland and by unswervingly following the socialist road could Tibet have a bright prospect and beautiful future."

[149] See, e.g., State Council Information Office, White Paper on "Fifty Years of Democratic Reform in Tibet," 2 March 09, reprinted in Xinhua (Online), 2 March 09. "Thanks to the care of the central authorities and the support of the whole nation, Tibet has witnessed remarkable progress in economic and social development. From 1959 to 2008, the local GDP soared from 174 million yuan to 39.591 billion yuan, a 65-fold increase or an average annual growth of 8.9 percent at comparable prices." "Overall Situation Stable in Tibet," Xinhua (Online), 6 March 09. According to the article, TAR GDP in 2008 surpassed 39.59 billion yuan (US$5.82 billion), an increase of 10.1 percent over 2007. Rural per capita income in the TAR in 2008 averaged 3,176 yuan in 2008, an increase of 13.9 percent over 2007. Urban per capita income in the TAR in 2008 averaged 12,482 yuan, an increase of 12.1 percent over 2007.

[150] When Chinese government and Party officials refer to "Tibet," they generally refer to what is today the Tibet Autonomous Region.

[151] See, e.g., State Council Information Office, White Paper on "Fifty Years of Democratic Reform in Tibet," 2 March 09, reprinted in Xinhua (Online), 2 March 09. With respect to education: "In old Tibet there was not a single school in the modern sense. The enrollment rate for school-age children was less than two percent, while the illiteracy rate was as high as 95 percent. . . . The enrollment rate for primary school-age children has reached 98.5 percent, that for junior high school 92.2 percent, and that for senior high school 51.2 percent. There are 884 primary schools, 117 high schools and 1,237 teaching venues now in Tibet." With respect to highway infrastructure: "In the old days, there was not a single highway in Tibet. Today, a convenient transportation network has taken shape, with highway transportation as the backbone and air, rail and pipeline transportation as supplement, stretching from Lhasa to all directions. In 2008, nearly all counties in Tibet became accessible by highways." (Commission staff cannot confirm the accuracy of Chinese government statistics on educational infrastructure and student attainment in the TAR. The Commission's 2006 Annual Report stated, based on official Chinese government 2000 census data: "Education levels among Tibetans are much lower than those of ethnic Han, undermining the ability of Tibetans to compete for employment and other economic advantages in an emerging market economy that attracts an increasing number of Han. Based on 2000 census data, the Tibetan rate of illiteracy (47.55 percent) is more than five times higher than for Han (8.60 percent), while Han reach senior middle school at more than five times the rate of Tibetans (8.83 percent compared to 1.70 percent)." CECC, 2006 Annual Report, 20 September 06, 169.)

[152] "Tibet Party Chief: Conditions Ripe for Building Lhasa-Xigaze Railway," Tibet Daily, 3 June 09 (summarized translation in Open Source Center, 22 June 09). According to the Open Source Center summary: "Zhang Qingli, secretary of the Tibet CPC Committee, and Minister of Railways Liu Zhijun on 30 May have a forum on accelerating the construction and development of railways in Tibet."

[153] See, e.g., "Dalai Lama Group's Sabotage Biggest Obstacle to Tibet's Development," Xinhua (Online), 6 March 09.

[154] Ibid.

[155] "Tibet To Step Up Legislation, Law Enforcement To Fight Splittism," Xinhua (Online), 12 March 09.

[156] Ibid.

[157] Ibid.

[158] "Comprehensively Carrying out the Guiding Ideology Set by the Central Authorities for the Tibet Work in the New Period—First Commentary on Launching Activities for Thoroughly Studying and Practicing the Scientific Development Concept," Tibet Daily, 10 October 08 (translated in Open Source Center, 19 October 08). "One prominent feature about Tibet, which makes Tibet different from all the other provinces, regions, and municipalities in the country, is that Tibet is shouldered with an extremely heavy task of promoting its economic and social development on the one hand and the Dalai clique is trying its utmost to make disturbances and sabotages on the other."

[159] CECC, 2004 Annual Report, Section VI on Tibet, "Culture, Demography, and Development," 5 October 04, 98–100.

[160] CECC, 2005 Annual Report, Section VI on Tibet, "Culture, Development, and Demography," 11 October 05, 108–110.

[161] CECC, 2006 Annual Report, Section VIII on Tibet, "Culture, Development, and Demography," 20 September 06, 165–170.

[162] CECC, 2007 Annual Report, Section IV on Tibet: Special Focus for 2007, "Tibetan Culture Under Chinese Development Policy and Practice," 10 October 07, 200–207.

[163] CECC, 2008, Annual Report, Section V on Tibet, "Economic Development vs. Ethnic Minorities' Autonomous Rights," 31 October 08, 192–194.

[164] The Dalai Lama has made a statement on the anniversary of the March 10, 1959, Lhasa uprising every year that he has lived in exile, beginning in 1960. The statements for the years 1961 to 2009 are available on the Web site of His Holiness at *http://www.dalailama.com/page.104.htm*.

[165] Office of His Holiness the Dalai Lama (Online), "Statement of His Holiness the Dalai Lama on the Fiftieth Anniversary of the Tibetan National Uprising Day," 10 March 09.

[166] Ibid.

[167] For example, Hu Yinan, "Lhasa To Boast Modern Redesign," China Daily (Online), 17 March 09.

[168] "Tibet Starts Building 5th Civil Airport," Xinhua (Online), 30 April 09. "China is also building a 254-km railway linking Xigaze with the regional capital Lhasa. Construction on the

11-billion-yuan [US$1.61 billion] Qinghai-Tibet railway's extension line started in 2008 and was expected to be completed in 2010."

[169] Ibid. Construction began on April 29, 2009, according to the article, and would be complete in two years.

[170] "Opinions on the Implementation of Certain Policy Measures for the Large-Scale Development of the West Region (by the State Council Office for the Development of the West Region on 28 August 2001)," Xinhua, 20 December 01 (translated in Open Source Center, 20 December 01). Under the subheading, "Giving Priority to the West Region in Making Arrangements for Construction Projects," the State Council Opinion states, "It is necessary to give priority to the west region in making arrangements for construction and other development projects, including water conservancy, highway, railway, airport, oil and gas pipes, telecommunications and other infrastructure construction projects; ecological and environmental improvement; the development of agriculture with special characteristics and hydroelectric power; the production of fine coal, petroleum, natural gas, copper, aluminum, potassium, phosphorus and other advantageous energy sources; the development of tourism and high-technology with special characteristics; and the industrialization of military technologies for civilian use."

[171] Ibid. (The opinion provides 2000 as the date of a State Council circular on implementation of the Great Western Development campaign.) "The implementation of the strategy of large-scale development of the west region and the acceleration of the development of China's central and west regions is a major policy decision of the party Central Committee after taking the overall situation into consideration with great foresight. According to the 'State Council Circular on Implementing Certain Policy Measures for the Large-Scale Development of the West Region' (Guo Fa [2000] No. 33), the State Council Office for the Development of the West Region has further studied and formulated opinions on the implementation of certain policy measures for the large-scale development of the west region in conjunction with concerned departments."

[172] Hu Yinan, "Lhasa To Boast Modern Redesign," China Daily (Online), 17 March 09.

[173] Ibid.

[174] Ibid. "According to the plan, Lhasa, Tibet's largest city, should cap its downtown population at less than 450,000, while constraining its land used for urban development within 75 sq km."

[175] Tibet Statistical Yearbook 2008 (Beijing: China Statistics Press, June 2008), Table 3–7, "Population by Region," 36. The seven counties included in Lhasa municipality are Linzhou (Lhundrub), Dangxiong (Damshung), Nimu (Nyemo), Qushui (Chushur), Duilongdeqing (Toelung Dechen), Dazi (Tagtse), and Mozhugongka (Maldro Gongkar).

[176] Ibid.; Tabulation on Nationalities of 2000 Population Census of China, Department of Population, Social, Science and Technology Statistics, National Bureau of Statistics, and Department of Economic Development, State Ethnic Affairs Commission (Beijing: Ethnic Publishing House, September 2003), Table 10–4. The total 2007 population of Lhasa municipality (464,736 persons) and of Lhasa city (181,191) provided in the 2008 Tibet Statistical Yearbook are less than the population for the same areas recorded in the official 2000 census: Lhasa municipality (474,499); Lhasa city (223,001). (The notion that Lhasa's population in 2007, after the opening of the Qinghai-Tibet railway, was lower than in 2000, before the construction of the railway, is an example of problems that official Chinese population data can pose, especially when comparing census data on population with population data in provincial statistical yearbooks. The national census and annual provincial population surveys use different methods to collect data. See CECC, 2006 Annual Report, Section VIII—Tibet, 20 September 06, 168–169; CECC, 2005 Annual Report, Section VI—Tibet, 11 October 05, 110.)

[177] Tibet Statistical Yearbook 2008 (Beijing: China Statistics Press, June 2008), Table 3–7, "Population by Region," 36. The yearbook provides the following data for 2007: Lhasa municipality total (464,736). Lhasa city (181,991); Linzhou (Lhundrub) county (58,426); Dangxiong (Damshung) county (43,534); Nimu (Nyemo) county (30,394); Qushui (Chushur) county (33,159); Duilongdeqing (Toelung Dechen) county (45,551); Dazi (Tagtse) county (26,723); Mozhugongka (Maldro Gongkar) county (44,958).

[178] For a discussion of official Chinese reports on the number and characterization of passengers traveling on the Qinghai-Tibet railway into the Tibet Autonomous Region, and of the views of some Tibetan residents of Lhasa toward the increase in non-Tibetans in Lhasa, see CECC, 2007 Annual Report, Section IV on Tibet: Special Focus for 2007, "Qinghai-Tibet Railway Carries 1.5 Million Passengers Into the TAR in First Year," 10 October 07, 203–204.

[179] "Transcript of Tibet Officials' 6 Mar Interview With Reporters During NPC Session," Xinhua, 6 March 09 (translated in Open Source Center, 15 March 09); Lan Jinshan, "Zhang Yijiong's Emphasis on the Promotion of Services and Management for Floating Population Sets a New Platform" [Zhang Yijiong qiangdiao tuidong liudong renkou fuwu he guanli mai shang xin taijie], China Tibet News (Online), 3 September 08; See also "Unavoidable Internal Problems, Separatists Blamed for Lhasa Riot," China Daily (Online), 19 March 09.

[180] Ibid. Lan Jinshan, "Zhang Yijiong's Emphasis on the Promotion of Services and Management for Floating Population Sets a New Platform" [Zhang Yijiong qiangdiao tuidong liudong renkou fuwu he guanli mai shang xin taijie], China Tibet News (Online), 3 September 08. According to the report, Zhang Yijiong said: "In recent years, following the increasing strength of reform and opening up in Tibet, especially following the opening of the Green Tibet Railroad, the work of service and supervision of Tibet's floating population has encountered many new situations, is facing many new problems, and requires that we research and find solutions with increased sincerity."

[181] "Transcript of Tibet Officials' 6 Mar Interview With Reporters During NPC Session," Xinhua, 6 March 09 (translated in Open Source Center, 15 March 09). Referring to the March 14 rioting, Jampa Phuntsog (Xiangba Pingcuo) said: "At that time, the violent acts of the thugs caused 18 deaths of innocent people and injured 382 people, and some became disabled. The thugs set fires at more than 300 places including five hospitals, 908 shops, and 120 civilian houses."

[182] Ibid. Chairman of the TAR Government, Jampa Phuntsog, said of the floating population: "They conducted legal business here and made contributions to Tibet's development, but they were killed for no reason. . . . This involves some issues concerning the management of the floating population and issues concerning social management. With the completion of the Qinghai-Tibet railway and increases in the stream of people, the flow of merchandise, and the flow of information, we are behind in some work."

[183] Lan Jinshan, "Zhang Yijiong's Emphasis on the Promotion of Services and Management for Floating Population Sets a New Platform" [Zhang Yijiong qiangdiao tuidong liudong renkou fuwu he guanli mai shang xin taijie], China Tibet News (Online), 3 September 08.

[184] Ibid.

[185] Ibid.

[186] "With People First, Do Good Floating Population Management Work" [Chengguan qu liudong renkou guanli gongzuo huiyi qiangdiao], Lhasa Evening News (Online), 4 February 09. "It is understood that since June of last year, the autonomous region, Lhasa Municipality and Chengguan District have sent 40 county-level cadres and 147 normal cadres into the 40 village (neighborhood) committees in Chengguan District to work on floating population service and management stations. In total, 69,000 rental accommodation units have been checked and registered, 183,926 people have been registered with temporary residency, 61,380 rented accommodation [law and] order responsibility contracts have been signed, and 59,186 rented accommodation [law and] order leases have been signed."

[187] Ibid. (Although the article refers to the officials who registered temporary residents in Lhasa's Chengguan district as *ganbu* (cadres), they may have held government jobs in addition to their Party post if they were registering residents, a government function.)

[188] Ibid. "It is understood that since June of last year, the autonomous region, Lhasa Municipality and Chengguan District have sent 40 county-level cadres and 147 normal cadres into the 40 village (neighborhood) committees in Chengguan District to work on floating population service and management stations. In total, 69,000 rental accommodation units have been checked and registered, 183,926 people have been registered with temporary residency, 61,380 rented accommodation [law and] order responsibility contracts have been signed, and 59,186 rented accommodation [law and] order leases have been signed."

[189] Tibet Statistical Yearbook 2008 (Beijing: China Statistics Press, June 2008), Table 3–7, "Population by Region," 36. The yearbook provides the following data for 2007: Lhasa municipality total (464,736), Lhasa city (181,991).

[190] "Construction of Tibet's Largest Logistics Center Nears Completion," Xinhua, 20 April 09, reprinted in China Internet Information Center (Online); "Nagqu Logistics Center: Beautiful Scenery in Changtang," China Tibet Information Center (Online), 9 April 09.

[191] "Construction of Tibet's Largest Logistics Center Nears Completion," Xinhua, 20 April 09, reprinted in China Internet Information Center (Online). "It is scheduled to be finished in June, but when it would start operation remained unknown, said Yang." (The article described Yang Yanguang as "a project leader from China Railway Construction Engineering Group.") "Nagqu Logistics Center: Beautiful Scenery in Changtang," China Tibet Information Center (Online), 9 April 09. An April 9 report, however, provided June 30, 2009, as the startup date: "This center as the beautiful scenery in Changtang is expected to start operation on June 30, 2009."

[192] "Tibet's Largest Logistics Center Starts Operation," Xinhua, reprinted in China Daily (Online), 18 August 09.

[193] "Construction of Tibet's Largest Logistics Center Nears Completion," Xinhua, 20 April 09, reprinted in China Internet Information Center (Online). The report states that the facility occupies 533 hectares (1,317 acres).

[194] "Key Railway Logistics Center Set Up in Tibet," Xinhua (Online), 17 August 09.

[195] "Nagqu Logistics Center: Beautiful Scenery in Changtang," China Tibet Information Center (Online), 9 April 09. "[The logistics center] . . . will have a great impact on Chamdo county of TAR, Sichuan Province, and Yunnan Province in the east and in the west it will influence Ngari county [sic: prefecture], which is connected with the Xinjiang Uygur Autonomous Region. In the north, Nagqu Logistics Center will connect Shaanxi Province, Gansu Province and Qinghai Province while in the south it will boost the central areas of the Tibet Autonomous Region."

[196] "Nagqu Logistics Center: Bridge Tower for Landway of S Asia," Xinhua (Online), 25 November 08.

[197] "Qinghai-Tibet Rail Line Opens Way for Future," China Daily (Online), 10 January 09. According to the article, "In the near future, a new railway will be built from Lhasa to Xigaze, and before 2020 a railway is planned connecting Xinjiang Uygur autonomous region and Tibet." Sun Yongfu, former Vice-Minister of Railways said, "In the long term, there will also be railways entering Tibet from Chengdu in Sichuan province and Kunming in Yunnan province."

[198] "Qinghai-Tibet Railway To Get Six New Lines," China Daily (Online), 17 August 08. "The six new tracks include one from Lhasa to Nyingchi [Linzhi] and one from Lhasa to Xigaze [Rikaze], both in the Tibet autonomous region. Three tracks will originate from Golmud in Qinghai province and run to Chengdu in Sichuan province, Dunhuang in Gansu province, and Kuerle [Ku'erle] of the Xinjiang Uygur Autonomous Region. The sixth will link Xining, capital of Qinghai, with Zhangye in Gansu." "Qinghai-Tibet Plateau To Embrace 6 More Railway Lines by 2020," Xinhua (Online), 3 December 08.

[199] CECC China Human Rights and Rule of Law Update, September 2006, 14; "Government Announces Extension of Qinghai-Tibet Railway to Rikaze," Congressional-Executive Commission on China (Online), 28 August 06.

[200] "Tibet Party Chief: Conditions Ripe for Building Lhasa-Xigaze Railway," Tibet Daily, 3 June 09 (summarized translation in Open Source Center, 22 June 09). According to the Open Source Center summary: "Zhang Qingli, secretary of the Tibet CPC Committee, and Minister of Railways Liu Zhijun on 30 May have a forum on accelerating the construction and development of railways in Tibet."

[201] "Work on Sichuan-Tibet Railway To Begin in September," China Tibet Online (Online), 31 August 09.

[202] A September 2, 2009, Xinhua article reported that railway officials said that a Sichuan-Tibet railway construction timetable had yet to be established. The report did not take issue with any other details previously reported. "Ministry Refutes Media Reports on New Railway to Tibet," Xinhua (Online), 2 September 09. "Work on Sichuan-Tibet Railway To Begin in September," China Tibet Online (Online), 31 August 09. According to the report, the planned 8-hour journey from Chengdu to Lhasa on the Sichuan-Tibet railway will be a fraction of the current 45 hours from Chengdu to Lhasa via the Qinghai-Tibet railway. Tabulation on Nationalities of 2000 Population Census of China, Department of Population, Social, Science and Technology Statistics, National Bureau of Statistics, and Department of Economic Development, State Ethnic Affairs Commission (Beijing: Ethnic Publishing House, September 2003), Table 10–1. According to 2000 census data: the population of Lhasa municipality was 0.475 million and the population of the TAR was 2.62 million; the population of Xining municipality was 1.85 million and the population of Qinghai province was 4.82 million; the population of Chengdu municipality was 11.11 million and the population of Sichuan province was 82.34 million. (Based on 2000 census data, the Sichuan-Tibet railway will connect Lhasa municipality to a municipal area (Chengdu) with a population more than 23 times greater than Lhasa municipality. The railway will connect the TAR to a province (Sichuan) with a population more than 31 times greater than the TAR. In comparison, the Qinghai-Tibet railway connects Lhasa municipality to a municipal area (Xining) with a population less than four times greater than Lhasa municipality. The railway connects the TAR to a province (Qinghai) with a population less than double the TAR.)

[203] "Tibet Starts Building 5th Civil Airport," Xinhua (Online), 30 April 09. "China is also building a 254-km railway linking Xigaze with the regional capital Lhasa. Construction on the 11-billion-yuan [US$1.61 billion] Qinghai-Tibet railway's extension line started in 2008 and was expected to be completed in 2010."

[204] "Hu Calls for Great Wall of Stability in Tibet," Xinhua (Online), 9 March 09. "The President urges Tibet to vigorously advance the program of building 'socialist new villages,' develop industries with distinguished features and strengthen ecological and environmental protection."

[205] See CECC, 2007 Annual Report, Section IV on Tibet, "Tibetan Culture Under Chinese Development Policy and Practice," Rebuilding the Tibetan Countryside: Allegations of Forced Settlement, Re-housing, 10 October 07, 204–207.

[206] "Opinions of the Tibet Autonomous Regional CPC Committee and the Tibet Autonomous Regional People's Government on Agriculture, Animal Husbandry, and on the Work in Agricultural and Pastoral Areas During the 10th Five-Year Plan Period (4 April 2000)," Tibet Daily, 11 April 00 (translated in Open Source Center, 11 April 00). (This series of excerpts establishes the "socialist new villages" construction as part of the Great Western Development campaign.) "In order to seize the historical opportunities of extensively developing the west regions, . . . the regional party committee and government specially studied and formulated the opinions on the regional agriculture, animal husbandry and the work in agricultural and pastoral areas for the '10th Five-Year Plan' period. . . . 7. Promote the Comprehensive Social Development of Agricultural and Pastoral Areas. . . . 18. Construction of socialist spiritual civilization should be intensified. Construction of spiritual civilization should be aimed at improving the quality of farmers and herdsmen and building socialist new villages."

[207] "Grand Western Development Is a Vivacious Chapter in Implementation of 'Three Represents,'" People's Daily, 20 October 02 (Open Source Center, 20 October 02). "Since 1999, Comrade Jiang Zemin has frequently presided over meetings to specifically study the issue of implementing the strategy of great western development and has issued a series of important directives. In early 2000, the State Council founded a leading group for the development of the western region and presented the strategy of great western development."

[208] CECC, 2008 Annual Report, Section V on Tibet, "Economic Development vs. Ethnic Minorities' Autonomous Rights," 31 October 08, 194; Human Rights Watch (Online), "'No One Has the Liberty To Refuse'—Tibetan Herders Forcibly Relocated in Gansu, Qinghai, Sichuan, and the Tibet Autonomous Region," 11 June 07.

[209] For example, incidents of political protest were reported in nomadic areas such as Banma (Pema), Jiuzhi (Chigdril), and Dari (Darlag) counties in Guoluo (Golog) TAP, Qinghai province. "Latest Updates on Tibet Demonstrations," Tibetan Government-in-Exile (Online), 26 March 08. Banma county: "After the arrival and the subsequent tight restrictions by Chinese military forces in Pema County, a protest was held during which the people demanded concrete results in the Sino-Tibetan dialogue. The same evening in Panchen, Pangrue and Markhog villages, Tibetans held peaceful demonstrations." "Latest Updates on Tibet Demonstrations," Tibetan Government-in-Exile (Online), 23 March 08. Jiuzhi county: "Around 500 monks and lay people from Palyul village are holding a sit-down on a hill-top to demand that Karwang Nyima Rinpoche (Dharthang Monastery head) not be harassed by the Chinese military. The people have also demanded the United Nations, U.S. and other countries intervene to resolve the issue." "Latest Updates on Tibet Demonstrations," Tibetan Government-in-Exile (Online), 22 March 08. Dari county: "Around 200 protesters (including many horsemen) held protests in Toema and Meyma villages."

[210] "China Resettles 50,000 Herdsmen To Protect Environment of Qinghai-Tibet Plateau," Xinhua (Online), 24 August 09.

[211] Ibid. According to Xinhua, the project commenced in 2003 and was stepped up in 2005. Li Xiaonan, Deputy Director of the Sanjiangyuan Ecological Preservation and Construction Office, told Xinhua, "A total of 49,631 people from 10,579 families has moved out of the reserve during the last few years. There has been an input of more than 300 million yuan and public infrastructures have been constructed for 86 immigrant communities."

[212] According to information available on the Web site of the non-governmental organization Plateau Perspectives, the geographic area of the Sanjiangyuan National Nature Reserve includes a total of 17 counties in four of Qinghai province's Tibetan Autonomous Prefectures and

one Mongol and Tibetan Autonomous Prefecture. Yushu (Yulshul) TAP, six counties: Yushu (Kyegudo), Nangqian (Nangchen), Zaduo (Dzatoe), Zhiduo (Dritoe), Chengduo (Tridu), and Qumalai (Chumarleb) counties. Guoluo (Golog) TAP, six counties; Maqin (Machen), Banma (Pema), Gande (Gade), Dari (Darlag), Jiuzhi (Chigdril), and Maduo (Matoe) counties. Hainan (Tsolho) TAP, two counties: Xinghai (Tsigorthang) and Tongde (Gepasumdo). Huangnan (Malho) TAP, two counties: Zeku (Tsekhog) county and Henan (Yulgan) Mongol Autonomous County. Haixi (Tsonub) M&TAP, one county-level area: Ge'ermu (Golmud, Kermo) city. Plateau Perspectives (Online), "Sanjiangyuan (Three Rivers' Headwaters) National Nature Reserve (SNNR)," last visited 31 August 09. Tabulation on Nationalities of 2000 Population Census of China, Department of Population, Social, Science and Technology Statistics, National Bureau of Statistics, and Department of Economic Development, State Ethnic Affairs Commission (Beijing: Ethnic Publishing House, September 2003), Tables 10–2, 10–4. According to 2000 census data, a total of 529,526 Tibetans and 32,173 Mongols lived in the 17 county-level areas that are partially or entirely within the SNNR. Of the 32,173 Mongols, 28,879 lived in Henan MAC. (Mongols also have a tradition of living as nomadic herders.)

[213] "Hu Calls for Great Wall of Stability in Tibet," Xinhua (Online), 9 March 09.

[214] Ibid. "Chinese President Hu Jintao called for the building of a Great Wall of stability in Tibet here on Monday, prior to the 50th anniversary of the foiling of an armed rebellion led by the Dalai Lama's supporters. . . . Hu's remarks came ahead of several sensitive dates in Tibet."

[215] Ibid.

[216] This section of the Commission 2009 Annual Report is not a complete account of all 2009 disagreements between Tibetans and Chinese government officials involving natural resource development projects.

[217] "Standoff at Tibet Gold Mine," Radio Free Asia (Online), 24 May 09. RFA sources stated: "Tibetan Buddhists regard [the mountain] as a sacred site"; and "the protest had been continuing for several months."

[218] "Mine Standoff Said Resolved," Radio Free Asia (Online), 28 May 09. According to local residents: "On May 16, a contingent of police and security forces arrived, but as many as 500 Tibetans began blocking the road, according to residents there." Pema Trinley, a senior TAR official traveled to Mangkang earlier in the year to persuade Tibetans to accept the mining project, but Tibetans continued to protest and Pema Trinley returned to Lhasa on April 5, RFA said. (The RFA report identified "Pema Thinley" as the "vice chairman of the TAR Communist Party." A March 2008 Xinhua report identified "Baima Chilin" (Pema Trinley) as the Executive Vice Chairman of the TAR government.) Wang Cong and De Ji, "Tibet Official Says No Punitive Measures Will Be Taken Against a Small Number of Monks Who Obstructed Chinese and Foreign Reporters," Xinhua, 27 March 08 (translated in Open Source Center, 28 March 08.)

[219] "Mine Dispute Largely Settled," Radio Free Asia (Online), 9 June 09. According to the RFA source: "It was agreed in writing that there will be no mining in the area." According to RFA sources: "[Q]uestions remain regarding the disposal of poisonous waste at the site." Mangkang PSB official, Mr. Wang: "So it was decided that the Tibetans will hire a professional group from China to examine it, and the government will assign the TAR Environmental Protection Department to carry out its own examination."

[220] Ibid. According to the RFA source: "All points of agreement were set down in writing in the presence of prefecture- and county-level officials."

[221] Tibetan Centre for Human Rights and Democracy (Online), "China Displaces Tens and Thousands of Tibetans in Tawu County," 25 May 09; Tibetan Centre for Human Rights and Democracy (Online), "6 Tibetans Seriously Wounded in Protests Against China's Hydroelectric Dam Project," 26 May 09. Both reports claimed that the dam's construction would displace "tens of thousands of local Tibetans," but did not provide any basis for the estimate. (Commission staff research suggests a dam is unlikely to displace "tens of thousands of Tibetans." If the dam is the Lianghekou Hydroelectric Project, as available information suggests, the reservoir will be principally in Yajiang county. According to China's 2000 census, the population of Yajiang county was 39,701 persons and the population of Daofu county was 44,848 persons. Tabulation on Nationalities of 2000 Population Census of China, Department of Population, Social, Science and Technology Statistics, National Bureau of Statistics, and Department of Economic Development, State Ethnic Affairs Commission (Beijing: Ethnic Publishing House, September 2003), Table 10–4.)

[222] Ibid.

[223] Ertan Hydropower Development Company, "Lianghekou Hydroelectric Project," last visited 22 June 09. "The project sits where the Yalong merges respectively with the Qingda and Xianshui rivers, hence the name 'lianghekou' (meaning 'estuary of two rivers'). Because of its particular location with one dam blocking three rivers, and because of its large reservoir, this project is truly a controlling project in the middle and lower reaches of the Yalong." The reservoir will have a storage capacity of 6.33 billion cubic meters and power generation capacity of 3,000 megawatt/hours. (According to a graphic on the construction company's Web site, the Lianghekou dam will result in what appears to be the second largest reservoir of the series of hydroelectric dams constructed or planned for the Yalong river. The scaling of the graphic suggests that the dam may be approximately 275 meters (approximately 900 feet) high. The graphic is available at *http://www.ehdc.com.cn/newsite/en/big_pic.html*.)

[224] See, e.g., "Chinese Forces Fire in Nyagrong, Arrest 9 Tibetans," Phayul (Online), 20 April 09 (Sichuan province, April 2009: "The local Tibetans also defied the government order to begin farming activities despite stringent measures adopted by the authorities to quell the movement that is still continuing in various Tibetan inhabited areas."); Emma Graham-Harrison, "Riot Shows Desperate Tibetans May Defy Security," Reuters (Online), 23 March 09 (March, Qinghai province: "A weekend riot by hundreds of ethnic Tibetans was a spontaneous response to tough Chinese security measures, activists and an expert said on Monday, and more destabilising outbursts are likely in coming months."); "6 Monks of Lutsang, 2 Others Released," Phayul (On-

line), 13 April 09 (Qinghai province, February 2009: About 100 Lutsang Monastery monks staged a candlelight protest "in memory of Tibetans killed in the ongoing crackdown following protests across Tibet since March 10, 2008."); "Tibetan Monk Beaten to Death," Radio Free Asia (Online), 30 March 09 (Sichuan province, March 2009: according to the reports, on March 25, monk Phuntsog Rabten "distributed several leaflets in the Draggo area calling on Tibetans not to till their land to protest Chinese crackdowns and to mourn Tibetans killed in last year's protests [against Chinese rule]."); International Campaign for Tibet (Online), "New Protest Today in Ngaba After Officials Ban Prayer Ceremony," 1 March 09 (Sichuan province, March 2009: "The crackdown in Ngaba has been particularly severe following a major protest involving monks from Kirti monastery and local people on March 16 last year, and the presence of troops in the area has been stepped up more recently."); Edward Wong, "China Adds to Security Forces in Tibet Amid Calls for a Boycott," New York Times (Online), 19 February 09 (Lhasa and Qinghai, Gansu, Sichuan provinces, February 2009: "Chinese officials have significantly increased security forces across Tibet in the face of a grass-roots movement to boycott festivities during the coming Tibetan New Year, according to residents of the region and recent visitors."); Ariana Eunjung Cha, "Clash Over Tibet Has County in Lockdown," Washington Post (Online), 19 February 09 (Lhasa, February 2009: "With the approach [in March 2009] of the 50th anniversary of the Tibetan uprising of 1959 that ended with the flight of the Dalai Lama to India, the crackdown has become even harsher, residents say."); Tibetan Centre for Human Rights and Democracy (Online), "China Re-arrests Monk Who Exposed Chinese Crackdown to Foreign Media," 4 November 08 (Gansu province, February 2009: A monk told Voice of America's Tibetan language service on September 12, 2008, that the crackdown at Labrang Tashikhyil Monastery was still continuing.); Mark Magnier, "China Tightening Control in Tibet Region, Exiles Say," Los Angeles Times (Online), 20 November 08 (Lhasa, November 2008: "We've monitored an even more intense crackdown in the past couple of weeks," said Kate Saunders, communication director with the International Campaign for Tibet.); International Campaign for Tibet (Online), "'A choked silence'; images from Tibet of crackdown," 31 October 08 ("New images and footage from Tibet depict the continuing crackdown in Tibet and convey an atmosphere of fear and intimidation across the plateau.").

[225] See, e.g., the following reports of Chinese government obstruction of information flow: Maureen Fan, "China Tightens Grip as Tibet Revolt Hits 50-Year Mark," Washington Post (Online), 16 March 09. "The owner of an Internet cafe in Ma'erkang county, in the Aba [Tibetan and Qiang] Autonomous Prefecture, said he had been without Internet service for a week. 'The whole prefecture has no Internet connection now,' said the owner, surnamed He. 'There was no notice, it was just cut.'" The article said that Tibetan blogger Woeser had written that "in at least 17 counties of the Ganzi Tibetan Autonomous Prefecture in Sichuan province, cell phone messaging and Internet service were cut off in mid-February," and that "Phone calls from foreign countries to Tibetan areas cannot get through." International Campaign for Tibet (Online), "Amdo Monks Taken for 'Study' After Peaceful Protest," 16 March 09. Andrew Jacobs, "Tibet Atrocities Dot Official China History," New York Times (Online), 13 March 09. "With Tibet closed to foreign journalists and much of the region suddenly, and mysteriously, troubled by patchy phone and Internet service, . . ." Audra Aung, "China's Show of Force Keeps Tibet Quiet," Associated Press, 10 March 09 (reprinted in Yahoo!, 10 March 09). "Lhasa residents received notice on their cell phones Tuesday from carrier China Mobile that voice and text messaging services may face disruptions from March 10 to May 1 for 'network improvements.' Similar measures were recently taken in other Tibetan communities as the government sought to unplug communications that activists used to spread word of the protests last year." "Police Tighten Control of Lhasa Monasteries Before Anniversary," South China Morning Post (Online), 5 March 09. "A middle-aged monk at Sera Monastery said it had been without communications since police confiscated all their mobile phones and other equipment last April [2008]." The article said of Drepung Monastery: "Since last year's unrest, authorities have sent hundreds of young monks home and confiscated the communication devices of those left behind." Royston Chan, "Heavy Security as Tibetans Prepare for New Year," Reuters (Online), 22 February 09. "In a further sign of government wariness, Internet services throughout [parts of Ganzi Tibetan Autonomous Prefecture] the area have been cut and people are unable to send or receive mobile telephone text messages, residents say."

[226] "Lhasa Court Sentences Tibetans for Sharing Information With 'The Dalai Clique,'" Congressional-Executive Commission on China (Online), 22 January 09. The Lhasa Intermediate People's Court in late October and early November 2008 sentenced seven Tibetans to terms of imprisonment ranging from 8 years to life imprisonment on charges of "espionage" (Criminal Law, Article 110) or unlawfully providing "intelligence" to an organization or individual outside of China (Criminal Law, Article 111). The Tibetans allegedly provided information ("intelligence") to Tibetan organizations based in India that are part of what the Chinese government and Party refer to collectively as "the Dalai Clique."

[227] See, e.g., the following reports of Chinese government obstruction of Internet and television access: Maureen Fan, "China Tightens Grip as Tibet Revolt Hits 50-Year Mark," Washington Post (Online), 16 March 09. According to the owner of an Internet cafe in Ma'erkang (Barkham) county, Aba Tibetan and Qiang Autonomous Prefecture: "The whole prefecture has no Internet connection now." Tibetan blogger Woeser had written that "in at least 17 counties of the Ganzi Tibetan Autonomous Prefecture in Sichuan province . . . Internet service [was] cut off in mid-February, . . ." Andrew Jacobs, "Tibet Atrocities Dot Official China History," New York Times (Online), 13 March 09. The article described the TAR as "mysteriously, troubled by patchy phone and Internet service."

[228] "Tibetan TV Dishes Pulled," Radio Free Asia (Online), 12 June 09. According to the report, a Tibetan resident of Xiahe (Sangchu) county, Gannan (Kanlho) TAP, told RFA: "Beginning in April of this year, the local broadcasting department in Kanlho prefecture dispatched staff to the counties to install cable lines and to pull down the satellite dishes used by local Tibetans to listen to foreign broadcasts like RFA and VOA Tibetan programs." A photographic image pub-

lished with the report shows a monk standing near a large pile of severely damaged satellite dishes, a Tibetan Buddhist temple behind the satellite dishes, and has the following caption: "Satellite dishes confiscated and destroyed by authorities in Labrang, Amdo, May 20, 2009."

[229] Malcolm Moore, "China Closes Tibet to Foreigners," Telegraph (U.K.), 18 February 09; "Official: Tibetan Areas Closed to Foreigners," Associated Press, reprinted in Washington Post, 12 February 09.

[230] "Official: Tibetan Areas Closed to Foreigners," Associated Press, reprinted in Washington Post, 12 February 09. "Several foreign journalists have reported being expelled from Tibetan-populated areas in China in the past week."

[231] Edward Wong, "The Heights Traveled To Subdue Tibet," New York Times (Online), 15 March 09. According to the report (datelined Maqu (Machu), Gannan TAP): "The paramilitary officer took our passports. It was close to midnight, and he and a half-dozen peers at the checkpoint stood around our car on the snowy mountain road. After five days, our travels in the Tibetan regions of western China had come to an abrupt end."

[232] Ibid. "We were to be escorted to the local police station, interrogated and put on a plane back to Beijing."

[233] See, e.g., Emma Graham-Harrison, "Riot Shows Desperate Tibetans May Defy Security," Reuters (Online), 23 March 09 (March, Qinghai province: "A weekend riot by hundreds of ethnic Tibetans was a spontaneous response to tough Chinese security measures, activists and an expert said on Monday, and more destabilising outbursts are likely in coming months."); "Tibetan Monk Beaten to Death," Radio Free Asia (Online), 30 March 09 (Sichuan province, March 2009: According to the report, on March 25, Phuntsog Rabten "distributed several leaflets in the Draggo area calling on Tibetans not to till their land to protest Chinese crackdowns and to mourn Tibetans killed in last year's protests [against Chinese rule]."); International Campaign for Tibet (Online), "New Protest Today in Ngaba After Officials Ban Prayer Ceremony," 1 March 09 (Sichuan province, March 2009: "The crackdown in Ngaba has been particularly severe following a major protest involving monks from Kirti monastery and local people on March 16 last year, and the presence of troops in the area has been stepped up more recently."); Edward Wong, "China Adds to Security Forces in Tibet Amid Calls for a Boycott," New York Times (Online), 19 February 09 (Lhasa and Qinghai, Gansu, Sichuan provinces, February 2009: "Chinese officials have significantly increased security forces across Tibet in the face of a grass-roots movement to boycott festivities during the coming Tibetan New Year, according to residents of the region and recent visitors."); Ariana Eunjung Cha, "Clash Over Tibet Has County in Lockdown," Washington Post (Online), 19 February 09 (Lhasa, February 2009: "With the approach [in March 2009] of the 50th anniversary of the Tibetan uprising of 1959 that ended with the flight of the Dalai Lama to India, the crackdown has become even harsher, residents say.").

[234] Edward Wong, "China Adds to Security Forces in Tibet Amid Calls for a Boycott," New York Times (Online), 19 February 09. "The campaign for the boycott of Losar, the Tibetan New Year, has spread via text and e-mail messages and fliers." Barbara Demick, "China Expects Tibet To Celebrate, or Else," Los Angeles Times (Online), 23 February 09. "Even among Tibetans, there is a vigorous debate about the campaign to boycott Losar." "Tibetan Monks in Protest March," Radio Free Asia (Online), 26 February 09. "Tibetans have largely boycotted traditional Losar festivities this year in memory of Tibetans killed and jailed in protests against Chinese rule throughout the region last year."

[235] Edward Wong, "China Adds to Security Forces in Tibet Amid Calls for a Boycott," New York Times (Online), 19 February 09. According to the article, "[A] monk said many Tibetans in Lhasa were talking of joining the boycott. But he said that Chinese officials were urging the Tibetans to carry on with festivities and were even offering them money to do so." Barbara Demick, "China Expects Tibet To Celebrate, or Else," Los Angeles Times (Online), 23 February 09. "The tactic appears to be driving Chinese authorities crazy. They're countering with their own campaign of forced merriment, organizing concerts, pageants, fireworks, horse races, archery competitions."

[236] Office of His Holiness the Dalai Lama (Online), "Chronology of Events," last visited 9 May 09. The chronology refers to the Lhasa events of March 10, 1959, as the beginning of the "Tibetan People's Uprising." (The March 10, 1959, events in Lhasa are sometimes referred to as the "1959 Lhasa Uprising.")

[237] See, e.g., "Tibet Remains Stable Despite Repeated Secessionist Attempts," Xinhua (Online), 8 March 09. "Legqog, chairman of the Standing Committee of the Tibetan Autonomous Regional People's Congress, confirmed that armed police have enhanced their service in some parts of Tibet but stressed that they are temporary security measures." Choi Chi-yuk, "Police Chiefs Replaced in Troubled Regions," South China Morning Post (Online), 20 May 09. "Almost 70,000 [PAP] were reportedly sent to Tibet in the run-up to the first anniversary of the crackdown in March."

[238] "TAR Creates March 28 Holiday To Celebrate 1959 Dissolution of Dalai Lama's Government," Congressional-Executive Commission on China (Online), 6 February 09.

[239] A Year After the March 2008 Protests: Is China Promoting Stability in Tibet? Staff Roundtable of the Congressional-Executive Commission on China, 13 March 09, Written Statement of Elliot Sperling, Associate Professor of Tibetan Studies, Department of Central Eurasian Studies, Indiana University.

[240] "Ahead of Sensitive Dates, Lhasa Officials Add 'Strike Hard' to Crackdown," Congressional-Executive Commission on China (Online), 25 February 09; "Winter Strike Hard Unified Checking Campaign Progresses Steadily" [Dongji yanda tongyi qingcha xingdong wenbu tuijin], Lhasa Evening News (Online), 23 January 09 (the "strike hard" campaign started on January 18); "Behind the Scenes of the 42-Day Winter Strike Hard" [42 tiandongji yanda lakai xumu], Lhasa Evening News (Online), 23 January 09 (the "strike hard" campaign will be of 70 days' duration). (For a full translation of "Winter Strike Hard Unified Checking Campaign Progresses Steadily," Lhasa Evening News, 23 January 09, see International Campaign for Tibet (Online), "Authorities Launch 'Strike Hard' Campaign, Heightening Lhasa Tension," 27 January 09.)

[241] "Ahead of Sensitive Dates, Lhasa Officials Add 'Strike Hard' to Crackdown," Congressional-Executive Commission on China (Online), 25 February 09; "Winter Strike Hard Unified Checking Campaign Progresses Steadily" [Dongji yanda tongyi qingcha xingdong wenbu tuijin], Lhasa Evening News (Online), 23 January 09 (the "strike hard" campaign started on January 18). (For a full translation of "Winter Strike Hard Unified Checking Campaign Progresses Steadily," Lhasa Evening News, 23 January 09, see International Campaign for Tibet (Online), "Authorities Launch 'Strike Hard' Campaign, Heightening Lhasa Tension," 27 January 09.)

[242] "Ahead of Sensitive Dates, Lhasa Officials Add 'Strike Hard' to Crackdown," Congressional-Executive Commission on China (Online), 25 February 09; "Lhasa City Police Corps Winter Strike Hard Campaign Achieves Successes" [Lasa shi gonganju xingjing zhidui dongji yanda zhuanxiang xingdong qude chengxiao], Lhasa Evening News (Online), 25 January 09. "From January 18 when the winter strike-hard campaign started until yesterday [January 24], Lhasa city police had mobilized a police force of 203 people and 60 vehicles. In those seven days, people's police carried out operations night and day checking a total of 30 residential courtyards, 3813 rented residences, 33 hotels and guest houses, and 56 bars and internet cafes. A total of 8424 people were checked, among whom 148 were found not to have [resident's] permits, . . ."

[243] "Ahead of Sensitive Dates, Lhasa Officials Add 'Strike Hard' to Crackdown," Congressional-Executive Commission on China (Online), 25 February 09; "Lhasa City Police Corps Winter Strike Hard Campaign Achieves Successes" [Lasa shi gonganju xingjing zhidui dongji yanda zhuanxiang xingdong qude chengxiao], Lhasa Evening News (Online), 25 January 09. "A total of 8424 people were checked, among whom 148 were found not to have [resident's] permits, 51 were suspected of criminal activity, 30 people were detained on suspicion of theft, burglary and prostitution, including 5 people detained in the process of stealing a motorbike, and 2 people who had reactionary opinions and reactionary songs on their cell phones."

[244] Tibetan Centre for Human Rights and Democracy (Online), "China Arrest Tibetan in Kardze Over Farming Boycott Movement," 21 March 09; Tibetan Centre for Human Rights and Democracy (Online), "Three More Tibetans Arrested in Connection With Farming Boycott Movement," 23 March 09; "Tibetans Stage Farm Boycott," Radio Free Asia (Online), 25 March 09; "Tibetan Monk Beaten to Death," Radio Free Asia (Online), 30 March 09; "Chinese Police Open Fire in Eastern Tibet, 9 Arrested and Several Injured," Tibetan Government-in-Exile (Online), 22 April 09.

[245] Tibetan Centre for Human Rights and Democracy (Online), "Drango Farmers Arrested and Beaten by the Chinese Security Police," 1 April 09. ". . . the Chinese authorities are on an arrests and beatings drive of the Tibetan farmers staging a civil disobedience movement by refusing to till their farmlands in eastern Tibet."

[246] See, e.g., "Tibetan Monk Beaten to Death," Radio Free Asia (Online), 30 March 09. According to RFA's source, police saw monk Phuntsog Rabten putting up posters "calling on Tibetans not to till their land to protest Chinese crackdowns and to mourn Tibetans killed in last year's protests [against Chinese rule]." The monk fled but police caught him and, according to Tibetan reports, beat him to death.

[247] See, e.g., "Tibetan Monk Beaten to Death," Radio Free Asia (Online), 30 March 09. According to RFA's source, police saw monk Phuntsog Rabten putting up posters "calling on Tibetans not to till their land to protest Chinese crackdowns and to mourn Tibetans killed in last year's protests [against Chinese rule]." "Tibetans Stage Farm Boycott," Radio Free Asia (Online), 25 March 09. "Tibetans in the Kardze (in Chinese, Ganzi) Tibetan Autonomous Prefecture had refused to cultivate their land following a week of other protests and detentions during a tense and politically sensitive month, sources in the Kardze area and abroad said."

[248] As of May 2009, Commission staff had seen reports on farming boycotts in Ganzi (Kardze), Luhuo (Draggo), and Xinlong (Nyagrong). Tibetan Centre for Human Rights and Democracy (Online), "China Arrest Tibetan in Kardze Over Farming Boycott Movement," 21 March 09 (Ganzi county); Tibetan Centre for Human Rights and Democracy (Online), "Three More Tibetans Arrested in Connection With Farming Boycott Movement," 23 March 09 (Ganzi county); "Tibetans Stage Farm Boycott," Radio Free Asia (Online), 25 March 09 (Ganzi county); "Tibetan Monk Beaten to Death," Radio Free Asia (Online), 30 March 09 (Luhuo county); "Chinese Police Open Fire in Eastern Tibet, 9 Arrested and Several Injured," Tibetan Government-in-Exile (Online), 22 April 09 (Xinlong (Nyagrong) county).

[249] "Tibetans Stage Farm Boycott," Radio Free Asia (Online), 25 March 09. In Ganzi (Kardze) county: "In response, Chinese authorities called a meeting in Lopa village in which Tibetan farmers were told that if they failed to till their land, they would be detained and their land would be confiscated." Tibetan Centre for Human Rights and Democracy (Online), "China Arrests Two Nuns of Dragkar Nunnery in Kardze," 3 April 09. In Luhuo (Draggo) county: "According to other sources, the local Chinese authorities in Drango County, Kardze 'TAP' have given [an] ultimatum to the Tibetan farmers to till their farmland before 11 April or their farmland [will] be confiscated by the government." (Commission staff have not seen public reports on Xinlong (Nyagrong) county officials threatening to confiscate farmland from Tibetans who participated in the farming boycott.)

[250] See, e.g., "Three More Tibetans Arrested in Connection With Farming Boycott Movement," 23 March 09 (Ganzi county); "Tibetan Monk Beaten to Death," Radio Free Asia (Online), 30 March 09 (Luhuo (Draggo) county); "Chinese Police Open Fire in Eastern Tibet, 9 Arrested and Several Injured," Tibetan Government-in-Exile (Online), 22 April 09 (Xinlong (Nyagrong) county).

[251] "One Suffers Gun Shot, Three Seriously Wounded in Chamdo," Phayul (Online), 17 June 09; "Chinese Police Fires at Tibetan Protesters in Eastern in Tibet," Tibetan Government-in-Exile (Online), 16 June 09.

[252] Tibetan Centre for Human Rights and Democracy (Online), "Drango Farmers Arrested and Beaten by the Chinese Security Police," 1 April 09. In Luhuo (Draggo) county: ". . . a group of farmers refused to comply [with] the Chinese authorities order to till their farmlands, they were subsequently arrested and then subjected to severe beatings and ill-treatment. According

to sources, fourteen Tibetans sustained injuries, some seriously. They were currently known to be kept in a hospital." "Tibetans Stage Farm Boycott," Radio Free Asia (Online), 25 March 09. In Ganzi (Kardze county): an RFA source said, referring to six detentions apparently linked to the boycotts, "Witnesses saw Chinese PSB personnel detaining them and beating them with iron rods and rifle butts."

[253] "Tibetan Monk Beaten to Death," Radio Free Asia (Online), 30 March 09; Tibetan Centre for Human Rights and Democracy (Online), "A Tibetan Monk Beaten to Death by Chinese Security Police," 30 March 09.

[254] "Chinese Police Open Fire in Eastern Tibet, 9 Arrested and Several Injured," Tibetan Government-in-Exile (Online), 22 April 09 (Xinlong (Nyagrong) county). According to the report: "At least 9 Tibetans, including a woman and 8 men, were arrested and several injured after the Chinese police opened fire on Tibetans protesting against the Chinese government. . . ."

[255] Ibid.

[256] "China Detains Tibetan Monks Protesting on Key Anniversary," Radio Free Asia (Online), 10 March 08; "Tibet Update (1)," China Digital Times (Online), last visited on 31 July 08; "Chinese Police Fire Tear-Gas at Protesting Tibetan Monks," Radio Free Asia (Online), 12 March 08; Tibetan Centre for Human Rights and Democracy (Online), "Picture Identities of Visiting Monk Students of Sera Monastery Arrested on 10 March 2008 From Barkhor Street, Lhasa, for Their Pro-Tibet Protest," 12 March 08; Tibetan Centre for Human Rights and Democracy (Online), "TCHRD Fears Torture and Inhumane Treatment on the Arrestees From Barkhor Protest on Tibetan Uprising Day," 12 March 08; "Report: Lhasa City People's Procuratorate Gives Permission To Arrest the First Suspect Who Held Up a Reactionary Flag," China Tibet News, 25 March 08 (translated in Open Source Center, 27 March 08). (According to the reports, approximately 300 Drepung Monastery monks attempted to stage a peaceful protest from the monastery to the Potala Palace. Public security forces and People's Armed Police prevented the monks from reaching the Potala Palace. In a separate protest the same day, at least 15 monks who were temporary students at Sera Monastery but who hailed from other provinces staged a brief political protest on the Barkor near the Jokhang Temple. Police detained at least 15 of the protesters. The Lhasa People's Procuratorate later charged 13 of them with illegal assembly.)

[257] For example, incidents of political protest were reported in nomadic areas such as Banma (Pema), Jiuzhi (Chigdril), and Dari (Darlag) counties in Guoluo (Golog) TAP, Qinghai province. "Latest Updates on Tibet Demonstrations," Tibetan Government-in-Exile (Online), 26 March 08. Banma county: "After the arrival and the subsequent tight restrictions by Chinese military forces in Pema County, a protest was held during which the people demanded concrete results in the Sino-Tibetan dialogue. The same evening in Panchen, Pangrue and Markhog villages, Tibetans held peaceful demonstrations." "Latest Updates on Tibet Demonstrations," Tibetan Government-in-Exile (Online), 23 March 08. Jiuzhi county: "Around 500 monks and lay people from Palyul village are holding a sit-down on a hill-top to demand that Karwang Nyima Rinpoche (Dharthang Monastery head) not be harassed by the Chinese military. The people have also demanded the United Nations, U.S. and other countries intervene to resolve the issue." "Latest Updates on Tibet Demonstrations," Tibetan Government-in-Exile (Online), 22 March 08. Dari county: "Around 200 protesters (including many horsemen) held protests in Toema and Meyma villages."

[258] The Commission treats as a political prisoner an individual detained or imprisoned for exercising his or her human rights under international law, such as peaceful assembly, freedom of religion, freedom of association, free expression, including the freedom to advocate peaceful social or political change, and to criticize government policy or government officials. (This list is illustrative, not exhaustive.)

[259] Based on data available in the Commission's Political Prisoner Database (PPD) as of May 22, 2009, Chinese security officials detained 131 Tibetans for political activity in May 2008, 49 Tibetans in June, 13 Tibetans in July, and 1 in August. Information recorded in the PPD is certain not to be complete.

[260] The 2008 Beijing Summer Olympic Games opened on August 8 and closed on August 24.

[261] As of September 2009, data available in the Commission's Political Prisoner Database (PPD) showed no more than one political detention of a Tibetan in each month during the period August to December 2008. PPD data on political detention of Tibetans during the period, however, is certain not to be complete, and Commission staff cannot create a PPD record unless adequate information is available. The overall trends that PPD data indicates may be indicative of proportional levels of detentions across a period even if the true number of detentions remains unknown and unrecorded.

[262] See, e.g., "Tibetans in New Kardze Protests," Radio Free Asia (Online), 9 January 09 (on December 29, 2008, a Tibetan protester "shouted slogans for several minutes calling for Tibetan freedom and for the long life of His Holiness the Dalai Lama"); "Protest in Kardze, 6 Arrested," Phayul (Online), 1 April 09 (on April 1, 2009, "six Tibetans shouted slogans calling for the return of His Holiness the Dalai Lama to Tibet and freedom for Tibetans in Tibet").

[263] See, e.g., "Tibet's Armed Police Chief Says Ready To Handle Incident," Xinhua (Online), 9 March 09. "A senior armed police chief in Tibet said here Monday that Tibet is 'very stable' but his troops are ready to handle any infiltration and sabotage activities by the Dalai Lama clique and other hostile forces." (The report was on an interview with Kang Jinzhong, Political Commissar of the TAR People's Armed Police.) "Tibet Makes All-Round Arrangements for the Work of Maintaining Social Stability," China Tibet News, 19 February 09 (translated in Open Source Center, 21 February 09). The report covers a teleconference of Communist Party, government, and public security officials, including TAR Party Secretary Zhang Qingli, Vice Minister Zhang Xinfeng of the Public Security Ministry, TAR Deputy Party Secretary Zhang Yijiong, and Legchog (Lieque) TAR Deputy Party Secretary and Chairman of the Standing Committee of the TAR People's Congress: "The teleconference called on large numbers of party, government, military, and police personnel in Tibet to immediately go into action and to conscientiously carry

out various measures and fulfill various tasks in a down-to-earth manner according to the arrangements made at this teleconference. United as one and with a community of spirit and purpose, they should resolutely smash the savage attacks by the Dalai clique and firmly win the current people's war against separatism and for stability in order to greet the 60th anniversary of the founding of New China and the 50th anniversary of democratic reform in Tibet with outstanding achievements."

[264] See, e.g., Free Tibet Campaign (Online), "Hundreds of Tibetans Protest Over Two Days in Restive Lithang County," 17 February 09. Referring to a February 15, 2009, protest in Litang (Lithang) county, Ganzi (Kardze) TAP, Sichuan province: "Eyewitnesses told the sources that the armed police used batons and rifle butts to beat the protesters, many of whom were badly bruised and bleeding as a result of their injuries." Referring to a February 16 protest in the same location: "The protest did not last long before it was violently put down by large numbers of armed police wielding batons and rifle butts." "Tibetans Stage Farm Boycott," Radio Free Asia (Online), 25 March 09. Referring to a March 16, 2009, protest in Ganzi (Kardze) county, Ganzi TAP, Sichuan province, an RFA source said: "Witnesses saw Chinese PSB personnel detaining them and beating them with iron rods and rifle butts." Tibetan Centre for Human Rights and Democracy (Online), "China Arrests Two Nuns of Dragkar Nunnery in Kardze," 3 April 09. Referring to a March 24, 2009, protest in Ganzi county, TCHRD said: "The Chinese People's Armed Police (PAP) immediately detained both the Tibetan nuns from the site of protest and [they were] beaten indiscriminately with rods and electric batons before being thrown into and driven away in a security vehicle."

[265] In a third incident that did not involve violent behavior by Tibetan protesters toward other persons or property, Kirti Monastery monk Tashi (or Tabe) attempted to burn himself to death on February 27, 2009. Security officials put out the fire and removed Tashi from the scene. Xinhua reported that Tashi was recovering in a hospital and denied reports that security officials had shot Tashi. "Self-Immolating Tibet Monk Recovering—Xinhua," Reuters (Online), 5 March 09; "China Refutes Shooting Tibetan Man Who Attempts To Set Himself Alight," Xinhua (Online), 3 March 09.

[266] Tibetan Centre for Human Rights and Democracy, "Ragya Monastery Encircled, Reeling Under Severe Restriction," 23 March 09. TCHRD reported that police subjected Tashi Zangpo to "harsh beatings, inhumane torture and long interrogation," and that on March 21 he escaped from the police compound while on a bathroom break and committed suicide by leaping into the nearby Machu River (Huanghe, Yellow River) gorge. "Lawbreakers Who Participated in Attacking the Police Station in Ragya Township and Assaulting Policemen and Government Workers Were All Brought to Justice," Xinhua, 22 March 09 (translated in Open Source Center, 22 March 09). The Xinhua report partially corroborates the TCHRD account: on March 21, a monk "suspected of breaking the law and under investigation at the Ragya police station" climbed over the wall while on a toilet break. "Someone reported to the local police that this monk jumped into the Yellow River . . . and attempted to swim to the opposite bank."

[267] "Lawbreakers Who Participated in Attacking the Police Station in Ragya Township and Assaulting Policemen and Government Workers Were All Brought to Justice," Xinhua, 22 March 09 (Open Source Center, 22 March 09). "[C]lose to 100 monks from the Ragya Monastery and some local masses gathered at the Ragya police station. They then attacked the police station and assaulted the policemen and government workers. As a result, many government workers suffered minor injuries."

[268] "More Tensions and Arrests Are Reported in Eastern Tibet," Radio Free Asia (Online), 18 June 09. A public security official in Jiangda (Jomda) county, Changdu (Chamdo) prefecture, TAR, told RFA that police had to "crack down on the Tibetan protesters" because Tibetans had been "very bold and aggressive these days." The official said that five Tibetans had been sentenced to two years and six months' imprisonment for beating a village leader. The report provided no details on the alleged incident and beating, such as when it took place, how many protesters were involved, and what the Tibetans were protesting against.

[269] See, e.g., "Tibetan Protesters Beaten, Detained," Radio Free Asia (Online), 21 January 09 (reports an alleged bombing in Jiangda (Jomda) county, Changdu (Chamdo) prefecture, TAR); Audra Ang, "Bomb Lobbed at Police Station in China's West," Associated Press, reprinted in Google, 17 March 09 (reports a bombing in Litang (Lithang) county, Ganzi (Kardze) TAP, Sichuan province); "Police Probe Six Suspects Over NW China Police Car Explosion," Xinhua (Online), 10 March 09 (reports a bombing in Banma (Pema) county, Guoluo (Golog) TAP, Qinghai province).

[270] Police beat Pema Tsepag upon detention on January 20, 2009. He died from his injuries three days later on January 23. "Tibetan Youth Dies in Custody," Radio Free Asia (Online), 30 January 09. RFA reported that police detained Pema Tsepag and two other men on January 20, 2009. A Tibetan living in India who has contacts in Chamdo prefecture told RFA, "[Pema Tsepag] was so severely beaten that his kidneys and intestines were badly damaged. He was initially taken to Dzogang [county] hospital, but they could not treat him, and they took him to Chamdo hospital instead." "China Beats Tibetan Youth to Death," Phayul (Online), 27 January 09.

[271] Tashi Zangpo escaped from police detention on March 21, 2009, 11 days after police detained him on March 10, and jumped into the nearby Yellow River gorge. Tibetan Centre for Human Rights and Democracy, "China Detains 95 Tibetans Who Protested in the Aftermath of Tashi Sangpo's Suicide in Machu River," 23 March 09. Tibetan Centre for Human Rights and Democracy, "Ragya Monastery Encircled, Reeling Under Severe Restriction," 23 March 09. TCHRD reported that police subjected Tashi Zangpo to "harsh beatings, inhumane torture and long interrogation," and that on March 21 he escaped from the police compound while on a bathroom break and committed suicide by leaping into the nearby Machu River (Huanghe, Yellow River) gorge. "Lawbreakers Who Participated in Attacking the Police Station in Ragya Township and Assaulting Policemen and Government Workers Were All Brought to Justice," Xinhua, 22 March 09 (translated in Open Source Center, 22 March 09). The Xinhua report partially corrobo-

rates the TCHRD account: on March 21, a monk "suspected of breaking the law and under investigation at the Ragya police station" climbed over the wall while on a toilet break. "Someone reported to the local police that this monk jumped into the Yellow River . . . and attempted to swim to the opposite bank."

[272] Phuntsog Rabten fled after police saw him putting up political protest posters on March 25, 2009. "Tibetan Monk Beaten to Death," Radio Free Asia (Online), 30 March 09. A source told RFA, after police saw Phuntsog Rabten distributing leaflets, "He tried to escape on a motorcycle, and then on foot, but local police called the county police, and he was cornered at a place called Wada. He was severely beaten by the Chinese security force and died at the scene. His body was tossed over a cliff in order to cover up the death."

[273] As of June 2009, the Commission's Political Prisoner Database recorded the political detention or imprisonment of approximately 500 Tibetans during 2008—but Commission staff analysis suggests that the actual number of political detentions and imprisonments, while unknown, is far higher than 500. For example, an India-based Tibetan NGO published in January 2009 a list of 1,863 Tibetans whom officials had detained since March 10, 2008. The NGO did not assert that all of the 1,863 persons listed were political detainees or prisoners. The list did not provide information about each detainee or prisoner's alleged activity. Chinese authorities may have detained or imprisoned some of the Tibetans on the list for activities that are not protected under international human rights conventions. But at the same time, it is certain that the list does not provide a complete account of all the Tibetans detained for exercising peacefully their freedoms of speech, religion, association, and assembly. Tibetan Centre for Human Rights and Democracy (Online), "Human Rights Situation in Tibet: Annual Report 2008, Appendix 2: List of Known Tibetans Who Were Arrested, Detained and Released in the Aftermath of Uprising in Tibet Since 10 March 2008," 22 January 09, 125–163.

[274] For the purpose of calculating average sentences, the Political Prisoner Database provides 20 years as a nominal length of a life sentence. Official Chinese information about the actual average time served by prisoners sentenced to life imprisonment is not available.

[275] For the purpose of calculating average sentences, the Political Prisoner Database provides 20 years as a nominal length of a life sentence. Official Chinese information about the actual average time served by prisoners sentenced to life imprisonment is not available.

[276] Office of the UN High Commissioner for Human Rights (Online), Working Group on Arbitrary Detention, Report of the Working Group on Arbitrary Detention: Addendum, Mission to China, 29 December 04, 22; CECC, 2005 Annual Report, 11 October 05, 112. Jigme Gyatso was sentenced in 1996 to 15 years' imprisonment for counterrevolution. Chinese officials told a UN Working Group on Arbitrary Detention (UNWGAD) delegation in September 2004 that he was guilty of "planning to found an illegal organization and seeking to divide the country and damage its unity." Office of the UN High Commissioner for Human Rights (Online), Working Group on Arbitrary Detention, Opinions Adopted by the Working Group on Arbitrary Detention, Opinion No. 8/2000, adopted 17 May 00, 67–70. The UNWGAD opinion on the case found that "there is nothing to indicate that the 'illegal organization' . . . ever advocated violence, war, national, racial, or religious hatred," and that Jigme Gyatso was "merely exercising the right to freedom of peaceful assembly with others in order to express opinions."

[277] Tibetan Centre for Human Rights and Democracy (Online), "TCHRD Calls for the Release of Jigme Gyatso on Medical Ground," 20 April 09.

[278] Dui Hua Dialogue (Online), "Official Responses Reveal Many Sentence Adjustments," Fall 2006.

[279] CECC, 2005 Annual Report, 11 October 05, 112. Choeying Khedrub, a monk of Tsanden Monastery in the TAR, was sentenced in 2000 to life imprisonment for his role in a group of men who allegedly printed pro-independence leaflets. According to information that the Chinese government provided to the UN Working Group on Arbitrary Detention (UNWGAD), he was found guilty of endangering state security and "supporting splittist activities of the Dalai clique." The UNWGAD reports that the Chinese response "mentions no evidence in support of the charges, or if they used violence in their activities," and finds that the government "appears" to have misused the charge of endangering state security.

[280] CECC, 2007 Annual Report, 10 October 07, 210. Bangri Chogtrul (Jigme Tenzin Nyima), who lived as a householder in Lhasa and managed a children's home along with his wife, was convicted of inciting splittism and sentenced to life imprisonment in a closed court in Lhasa in September 2000. "Lhasa Court Commutes Life Sentence for Children's Home Director to 19 Years," CECC China Human Rights and Rule of Law Update, April 2006, 16. The sentencing document lists evidence against Bangri Chogtrul that includes meeting the Dalai Lama, accepting a donation for the home from a foundation in India, and a business relationship with a Tibetan contractor who lowered a Chinese flag in Lhasa in 1999 and tried to blow himself up. Jigme Tenzin Nyima acknowledged meeting the Dalai Lama, accepting the contribution, and knowing the contractor, but he denied the charges against him and rejected the court's portrayal of events.

[281] CECC Political Prisoner Database, 10 June 09. On August 1, 2007, Tibetan nomad Ronggyal Adrag climbed onto a stage at a horse-racing festival in Litang (Lithang) county, Ganzi (Kardze) TAP, Sichuan province and shouted slogans calling for the Dalai Lama's return to Tibet, freedom of religion, Tibetan independence, and the releases of Gedun Choekyi Nyima (the Panchen Lama identified by the Dalai Lama) and Tenzin Deleg (a Buddhist teacher from the same area imprisoned in 2002 on charges of splittism and involvement in a series of bombings). The Ganzi Intermediate People's Court sentenced him on November 20, 2007, to eight years' imprisonment for inciting splittism (PRC Criminal Law, art. 103(2)). "CECC Political Prisoner Data Shows Rise in Tibetan Detentions in 2007," Congressional-Executive Commission on China (Online), 31 January 08; "China Sentences 4 for Spying, Secessionist Activities," Xinhua (Online), 20 November 07; "Tibetan Sentenced for 'Inciting To Split Country' at Sports Event," Xinhua (Online), 20 November 07; "Tibetan Nomad Calling for Dalai Lama's Return Convicted of Subversion and Splittism," Congressional-Executive Commission on China (Online),

1 November 07. The CECC report cites an October 30, 2007, Radio Free Asia report that the Ganzi Intermediate Court convicted Ronggyal Adrag on charges of splittism and subversion (PRC Criminal Law, arts. 103, 1005). (The court, however, did not sentence Ronggyal Adrag on the charge of subversion.)

[282] CECC, 2008 Annual Report, 31 October 08, 190, 281. The report stated, "Ganzi TAP has been the site of more known political detentions of Tibetans by Chinese authorities than any other TAP outside the TAR since the current period of Tibetan political activism began in 1987." The report provided detailed statistics based on the Commission's Political Prisoner Database.

[283] One record of a Ganzi TAP person with a religious occupation is of Phurbu Tsering, a person regarded by Tibetans as a reincarnated Tibetan teacher, or Rinpoche, but who lives as a householder, not as a monk, in a monastery. Phurbu Tsering heads Pangri Nunnery. Statements in an analysis by lawyers Li Fangping and Jiang Tianyong representing Phurbu Tsering (Pubu Ciren, Buronglang) refer to his residence. International Campaign for Tibet (Online), "Verdict on Tibetan Lama Deferred: Chinese Lawyers' Statement on Charges Against Phurbu Rinpoche," 27 April 09. "On May 18, 2008 Ganzi County Public Security investigative personnel conducted a search of the suspect Pubu Ciren's residence on 277 Liberation Street, Ganzi Town, . . ."

[284] About 55 Pangri Nunnery nuns protested and were detained on May 14, 2008, according to reports at that time. (The Political Prisoner Database contains 51 records of Pangri nuns who protested and were detained on May 14.) International Campaign for Tibet (Online), "More Than 80 Nuns Detained After Peaceful Protests Continue in Kham," 30 May 08 (reports 55 Pangri nuns protested and were detained); Tibetan Centre for Human Rights and Democracy (Online), "China Arrests 55 Nuns of Pang-ri Nunnery for Protesting," 17 May 08 (more than 55 Pangri nuns protested; 55 were detained); "Update on Tibet, 15 May 2008," Tibetan Government-in-Exile (Online), 15 May 08 (60 nuns protested; 52 nuns were detained).

[285] The largest protests in Ganzi TAP during the Commission's 2009 reporting year, based on reports available as of June 10, 2009, took place in Litang (Lithang) county on February 25 (100 to 200 protesters) and February 26 (300 to 400 protesters). Free Tibet Campaign (Online), "Hundreds of Tibetans Protest Over Two Days in Restive Lithang County," 17 February 09. "One source reported a total of about one hundred protesters and the other source reported between 150 and 200 protesters." Free Tibet Campaign (Online), "Hundreds of Tibetans Protest Over Two Days in Restive Lithang County," 17 February 09. "Sunday's [February 15] protest was followed by a much larger protest in the same location the next day. Both sources reported that the protest of 16 February started in the morning when 14 Tibetans, including relatives of Lobsang Lhundup, started shouting slogans: 'Free Tibet'; 'Long live His Holiness the Dalai Lama'; 'Don't celebrate Losar;' and 'Release Lobsang Lhundup.' . . . The protesting Tibetans were quickly joined by between 300 and 400 Tibetans, according to both sources."

[286] Based on information summarized in this section, Tibetan political protests in Ganzi TAP during January to March 2009 that resulted in a Political Prisoner Database record took place on the following dates: January 5, 7, and 27; February 15 and 16; and March 5 (at least two protests), 6, 11, 12, 14, 16, 19, 21, 22, 23, 24, 25, and 27.

[287] Based on information summarized in this section, Tibetan protests in Ganzi TAP carried out by a single Tibetan whom security officials detained and on whom the Political Prisoner Database contains a record took place on the following dates: January 5 and 7; February 15 and 27; and March 6, 10, 12, 14, and 22.

[288] Except for a March 25, 2008, China Tibet News report on the formal arrest of 13 monks on the charge of "illegal assembly" for staging a political protest on March 10, 2008, in front of Lhasa's Jokhang Temple, CECC staff have not seen any other public Chinese government or state-run media reports that provide specific information about individual Tibetans detained for peaceful political protests during the period beginning on March 10, 2008. For information on the China Tibet News report, see "Lhasa Court Sentences Tibetans for Sharing Information With 'The Dalai Clique,'" Congressional-Executive Commission on China (Online), 22 January 09.

[289] "Lhasa City Intermediate People's Court Pronounces Sentence in Four 'March 14 Incident' Cases for the Crime of Endangering State Security," Lhasa Evening News, 8 November 08, 2 (translated in International Campaign for Tibet (Online), "NGO Worker Sentenced to Life Imprisonment: Harsh Sentences Signal Harder Line on Blocking News From Tibet," 22 December 08); "Lhasa Court Sentences Tibetans for Sharing Information With 'The Dalai Clique,'" Congressional-Executive Commission on China (Online), 22 January 09.

[290] "Lhasa City Intermediate People's Court Pronounces Sentence in Four 'March 14 Incident' Cases for the Crime of Endangering State Security," Lhasa Evening News, 8 November 08, 2 (translated in International Campaign for Tibet (Online), "NGO Worker Sentenced to Life Imprisonment: Harsh Sentences Signal Harder Line on Blocking News From Tibet," 22 December 08). "Tibet's Lhasa City Intermediate People's Court in accordance with the law and in open court publicly passed sentence in recent days in four 'March 14 incident' cases for the crime of endangering state security." One case involved four Tibetans: Wangdu (Wangdui), Migmar Dondrub (Mima Dunzhu), Phuntsog Dorje (Pingcuo Duojie), and Tsewang Dorje (Ciwang Duojie). Each of the other three cases involved one Tibetan: Sonam Dragpa (Suolang Zhaba), Yeshe Choedron (Yixi Quzhen), and Sonam Tseten (Suolang Cidian).

[291] Ibid. The LEN report names a total of three Tibetan organizations in connection with the four cases: "the Dalai clique's security department" (the Tibetan government-in-exile's security department), the Tibetan Youth Congress (TYC, an India-based NGO that advocates for Tibetan independence), and Gu-Chu-Sum (an India-based NGO that Tibetan former political prisoners established to work on behalf of Tibetan political prisoners). Tibetan Youth Congress (Online), "About Us," last visited 3 June 08. According to the TYC Web site, among the four "tasks" assigned to TYC members are, "To dedicate oneself to the task of serving one's country and people under the guidance of His Holiness the Dalai Lama, the Spiritual and Temporal Ruler of Tibet," and "To struggle for the total independence of Tibet even at the cost of one's life." (The TYC does not, however, accept the Dalai Lama's guidance on seeking "genuine autonomy" for "Tibet"

under Chinese sovereignty, nor does the TYC expressly disavow the use of violence in the campaign for independence.) Gu-Chu-Sum (Online), "What is Gu Chu Sum?" last visited 24 May 09. "The Gu-Chu-Sum (9-10-3) Movement of Tibet was established . . . by ex-political prisoners of the Tibetan freedom movement . . . to help the suffering Tibetans remaining in prisons in Tibet and to provide needed support to ex-political prisoners who have journeyed into exile."

[292] "Lhasa City Intermediate People's Court Pronounces Sentence in Four 'March 14 Incident' Cases for the Crime of Endangering State Security," Lhasa Evening News, 8 November 08, 2 (translated in International Campaign for Tibet (Online), "NGO Worker Sentenced to Life Imprisonment: Harsh Sentences Signal Harder Line on Blocking News From Tibet," 22 December 08). "On October 27, Lhasa City Intermediate People's Court sentenced the defendant Wangdui in accordance with the law to life imprisonment with deprivation of political rights for life, for the crime of espionage; the defendant Mima Dunzhu was sentenced to fixed term imprisonment of 14 years with deprivation of political rights for five years, for the crime of espionage; the defendant Pingcuo Duoji was sentenced to fixed term imprisonment of nine years with deprivation of political rights for five years, for the crime of illegally sending intelligence abroad; and the defendant Ciwang Duoji was sentenced to eight years imprisonment with deprivation of political rights for five years, for the crime of illegally sending intelligence abroad." "On October 27, Lhasa City Intermediate People's Court sentenced Suolang Zhaba in accordance with the law to fixed term imprisonment of 10 years with deprivation of political rights for five years, for the crime of illegally sending intelligence abroad." "On November 7, Lhasa City Intermediate People's Court sentenced the defendant Yeshi Choedon in accordance with the law to fixed term imprisonment of 15 years with deprivation of political rights for five years, for the crime of espionage." "On November 7, Lhasa City Intermediate People's Court sentenced the defendant Suolang Cidian in accordance with the law to fixed term imprisonment of 10 years with deprivation of political rights for five years, for the crime of illegally sending intelligence abroad."

[293] PRC Constitution, passed 4 December 82, effective same day, amended 12 April 88, 29 March 93, 15 April 99, 14 March 04, art. 54. "It is the duty of citizens of the People's Republic of China to safeguard the security, honor and interests of the motherland; they must not commit acts detrimental to the security, honor and interests of the motherland."

[294] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 102. "Whoever colludes with a foreign State to endanger the sovereignty, territorial integrity and security of the People's Republic of China shall be sentenced to life imprisonment or fixed-term imprisonment of not less than 10 years."

[295] "Lhasa City Intermediate People's Court Pronounces Sentence in Four 'March 14 Incident' Cases for the Crime of Endangering State Security," Lhasa Evening News, 8 November 08, 2 (translated in International Campaign for Tibet (Online), "NGO Worker Sentenced to Life Imprisonment: Harsh Sentences Signal Harder Line on Blocking News From Tibet," 22 December 08); "Lhasa Court Sentences Tibetans for Sharing Information With 'The Dalai Clique,'" Congressional-Executive Commission on China (Online), 22 January 09.

[296] PRC Criminal Procedure Law, enacted 1 January 79, amended 17 March 96, effective 1 January 97, arts. 180, 201, 202, 208, 210. If a defendant does not appeal a people's intermediate court's verdict of death with a two-year reprieve, then a provincial high people's court must approve the verdict (art. 201). If a defendant appeals a verdict of death with a two-year reprieve in the "trial of first instance," then the next-higher people's court (the provincial high people's court) would conduct a "trial of second instance" (art. 180). Reviews by a high people's court of a penalty of death with a two-year reprieve must be conducted by a panel of three judges (art. 202). A judgment of death with a two-year reprieve does not become "legally effective" until the provincial high people's court approves it (art. 208). If the prisoner "commits no intentional offense during the period of suspension of the sentence" the sentence should be commuted (art. 210). PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 50. A sentence of death with a two-year reprieve may be commuted to life imprisonment upon expiration of the two-year suspension if a prisoner "commits no intentional crime" during the suspension. If a prisoner "has truly performed major meritorious service," then the sentence may be commuted to a fixed-term sentence of not less than 15 years and not more than 20 years. If the prisoner "has committed an intentional crime" during the period of suspension, the death penalty "shall be executed upon verification and approval of the Supreme People's Court."

Notes to Section VI—Developments in Hong Kong and Macau

[1] U.S.-Hong Kong Policy Act of 1992, Public Law No. 102–383, enacted 5 October 92; Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, enacted by the National People's Congress 4 April 90, effective 1 July 97; Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, adopted 19 December 84.

[2] U.S.-Macau Policy Act of 2000, Public Law No. 106–570, enacted 27 December 2000; Joint Declaration of the Government of the People's Republic of China and the Government of the Republic of Portugal on the Question of Macau, adopted 13 April 87; Basic Law of the Macao Special Administrative Region of the People's Republic of China, enacted by the National People's Congress 31 March 93, effective 20 December 99, art. 83.

[3] Basic Law of the Macao Special Administrative Region of the People's Republic of China, art. 83, enacted by the National People's Congress 31 March 93, effective 20 December 99; Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, enacted by the National People's Congress 4 April 90, effective 1 July 97, art. 85.

[4] Basic Law of the Hong Kong Special Administrative Region, enacted by the National People's Congress 4 April 90, effective 1 July 97, arts. 27, 32; Basic Law of the Macao Special Adminis-

trative Region of the People's Republic of China, enacted by the National People's Congress 31 March 93, effective 20 December 99, arts. 27, 34.

[5] Basic Law of the Macao Special Administrative Region of the People's Republic of China, enacted by the National People's Congress 31 March 93, effective 20 December 99, art. 83; Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, enacted by the National People's Congress 4 April 90, effective 1 July 97, art. 85.

[6] Decision of the Standing Committee of the National People's Congress on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage, issued 29 December 07.

[7] Government of the Hong Kong Special Administrative Region (Online), "Election Consultation To Be Deferred: CE," 15 January 09.

[8] "Hong Kong's Top Judge To Retire Next Year," Agence France-Presse, reprinted in Google (Online), 2 September 09.

[9] Ibid. See infra for more details on Li's retirement.

[10] The length of prison terms for state security crimes included 15 to 25 years for treason, secession, and subversion (lowered to 10 to 25 years after committee review in January 2009), 1 to 8 years for sedition, and 2 to 15 years for stealing, selling, or buying state secrets. Government of the Macao Special Administrative Region (Online), Macao National Security Bill (Draft) Final Consultation Report, 16 December 08.

[11] The Central People's Government of the PRC (Online), "Macau SAR Formally Issues National Security Law, Effective March 3," 2 March 09.

[12] Universal suffrage is described as the "ultimate aim" in the Basic Law. Basic Law of the Hong Kong Special Administrative Region, enacted by the National People's Congress 4 April 90, effective 1 July 97, arts. 45, 68.

[13] Decision of the Standing Committee of the National People's Congress on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage, issued 29 December 07; Frank Ching, "Universal Suffrage in Hong Kong," Korea Times (Online), 20 January 08.

[14] The first instance came in April 2004 when the National People's Congress Standing Committee ruled against universal suffrage for the 2007 chief executive election and the 2008 Legislative Council election. For more information, see CECC, 2004 Annual Report, 5 October 04, 104–106.

[15] Government of the Hong Kong Special Administrative Region, Registration and Electoral Office (Online), "The Third Term Chief Executive Election: Election Committee," 7 February 07; Keith Bradsher, "China Plans To Allow Hong Kong a Bigger Voice in Choosing Its Leaders," New York Times (Online), 25 September 05; Human Rights Watch (Online), "A Question of Patriotism: Human Rights and Democratization in Hong Kong," 9 September 04, 33–34; Alvin Y. So, "The Tiananmen Incident, Patten's Electoral Reforms, and the Roots of Contested Democracy in Hong Kong," in The Challenge of Hong Kong's Reintegration With China, ed. Ming K. Chan (Hong Kong: Hong Kong University Press, 1997), 70–72.

[16] Decision of the Standing Committee of the National People's Congress on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage, issued 29 December 07.

[17] Government of the Hong Kong Special Administrative Region (Online), "2008–09 Policy Address: Embracing New Challenges," 15 October 08.

[18] Government of the Hong Kong Special Administrative Region (Online), "Election Consultation To Be Deferred: CE," 15 January 09.

[19] "Hong Kong Delays Highly Anticipated Consultation To Focus on Economy," China Post (Online), 16 January 09.

[20] Decision of the Standing Committee on Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region, Forming the Legislative Council, and on Issues Relating to Universal Suffrage, issued 29 December 07.

[21] Chris Yeung, "Change of Tack," South China Morning Post (Online), 22 January 08.

[22] Decision of the Standing Committee on Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region, Forming the Legislative Council, and on Issues Relating to Universal Suffrage, issued 29 December 07.

[23] "Hong Kong's Top Judge To Retire Next Year," Agence France-Presse, reprinted in Google (Online), 2 September 09.

[24] Ibid. See also "Chief Justice Announces Early Retirement," South China Morning Post (Online), 2 September 09; "Hong Kong Chief Justice To Retire in Sep 2010, 3 Years Ahead of Plan," Nasdaq (Online), 2 September 09.

[25] "Hong Kong Chief Justice To Retire in Sep 2010, 3 Years Ahead of Plan," Nasdaq (Online), 2 September 09.

[26] Government of the Macao Special Administrative Region (Online), Macao National Security Bill (Draft) Final Consultation Report, 16 December 08, 1; Basic Law of the Macao Special Administrative Region of the People's Republic of China, enacted by the National People's Congress 31 March 93, effective 20 December 99, arts. 27, 31.

[27] The length of prison terms for state security crimes included 15 to 25 years for treason, secession, and subversion (lowered to 10 to 25 years after committee review in January 2009), 1 to 8 years for sedition, and 2 to 15 years for stealing, selling, or buying state secrets. See generally Government of the Macao Special Administrative Region (Online), Macao National Security Bill (Draft) Final Consultation Report, 16 December 08.

[28] Keith Bradsher, "Emboldened Hong Kong Protesters Call for Free Elections," New York Times (Online), 9 July 03.

[29] "Hong Kong Withdraws National Security Bill," China Daily (Online), 5 September 03.

[30] The consultation period lasted from October 22 to November 30, 2008. Government of the Macao Special Administrative Region (Online), "Macau SAR Government Launches Public Consultation Work for National Security Bill" [Tequ zhengfu qidong "weihu guojia anquan fa" zixun gongzuo], 22 October 08; Amnesty International (Online), "Macao: Stop the National Security Bill Now," 23 February 09.

[31] Government of the Macao Special Administrative Region (Online), Macao National Security Bill (Draft) Final Consultation Report, 16 December 08, 3.

[32] Ibid., 18.

[33] Government of the Macao Special Administrative Region, National Security Law, enacted 2 March 09, effective 3 March 09.

[34] Government of the Macao Special Administrative Region, Public Administration and Civil Service Bureau (Online), "International Trade Union Confederation Comments and Recommendations to the Macau SAR Government Macau Concerning the Draft Legislation on Article 23 of the Macau SAR Basic Law," 29 November 08.

[35] "Macau Government Passes Controversial National Security Bill," Congressional-Executive Commission on China (Online), (forthcoming).

[36] Ibid.; Government of the Macao Special Administrative Region, National Security Law, enacted 2 March 09, effective 3 March 09.

[37] "Macau Government Passes Controversial National Security Bill," Congressional-Executive Commission on China (Online), (forthcoming); Government of the Macao Special Administrative Region (Online), Macao National Security Bill (Draft) Final Consultation Report, 16 December 08, 62.

[38] Government of the Macao Special Administrative Region, Public Administration and Civil Service Bureau (Online), "International Trade Union Confederation Comments and Recommendations to the Macau SAR Government Macau Concerning the Draft Legislation on Article 23 of the Macau SAR Basic Law," 29 November 08.

[39] Ibid.

[40] Ibid.

[41] Ibid.

[42] Ibid.

[43] "Macau Catholics Concerned About Proposed National Security Law," Union of Catholic Asian News (Online), 4 December 08.

[44] "Macau Protesters March for Democracy, Better Livelihood on Reversion Anniversary," Union of Catholic Asian News (Online), 23 December 08.

[45] "Hong Kong Democrats Barred From Macau Ahead of Rally," Agence France-Presse (Online), 20 December 08; Dikky Sin, "Macau Refuses Hong Kong Activists, Lawmakers Entry To Protest Bill," China Post (Online), 21 December 08.

[46] "Macau Legislation Process for National Security Bill Completed," Union of Catholic Asian News (Online), 27 February 09; Government of the Macao Special Administrative Region, National Security Law, enacted 2 March 09, effective 3 March 09; "Macau Passes Security Laws That Hong Kong Rejected," Reuters (Online), 25 February 09.

[47] Government of the Macao Special Administrative Region (Online), Macao National Security Bill (Draft) Final Consultation Report, 16 December 08, 58.

[48] "Macao Revises National Security Bill, Calming Public Fears of Losing Speech Freedom," Xinhua, reprinted in People's Daily, 17 December 08.

[49] Government of the Macao Special Administrative Region (Online), Macao National Security Bill (Draft) Final Consultation Report, 16 December 08.

[50] Amnesty International (Online), "Macao National Security Law Threatens Human Rights," 2 March 09.

[51] The length of prison terms for state security crimes included 15 to 25 years for treason, secession, and subversion (lowered to 10 to 25 years after committee review in January 2009). Government of the Macao Special Administrative Region (Online), Macao National Security Bill (Draft) Final Consultation Report, 16 December 08.

[52] Government of the Macao Special Administrative Region, National Security Law, enacted 2 March 09, effective 3 March 09, art. 1.

[53] Ibid., art. 6.

[54] Ibid., art. 4.

[55] "Macau Unveils Proposed Nat'l Security Bill," China Post (Online), 23 October 08.

[56] Amnesty International (Online), "Macao: Stop the National Security Bill Now," 23 February 09. See also "Macau Unveils Proposed Nat'l Security Bill," China Post (Online), 23 October 08. In this report, opposition lawmaker Ng Kuoc Cheong was quoted expressing concern that officials might classify actions they dislike as "preparation" for treason or other such acts. Provisions that ban preparatory acts can carry a punishment of up to three years in jail. "Macao SAR Legislature Passes State Security Bill," Xinhua, reprinted on Sina.com, 5 January 09. In this report, lawmaker Au Kam San is quoted expressing concern about the unclear definitions of preparatory acts, sedition, and theft of state secrets in the revised bill. Hong Kong Journalists Association (Online), "2009 Annual Report: 'Macau Takes the Lead—Dangers for Freedom of Expression in Hong Kong,'" 5 July 09.

[57] Hong Kong Journalists Association (Online) 2009 Annual Report: "Macau Takes the Lead—Dangers for Freedom of Expression in Hong Kong," 5 July 09.

[58] "Hong Kong Democrats Barred From Macau," Taiwan News (Online), 16 March 09.

[59] Natalie Leung, "Ho Backs Macau's Entry Ban, Hong Kong Shows Concerns," Macau Daily Times (Online), 5 March 09.

Notes to China's International Human Rights Commitments

[1] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. V.

[2] UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review?China, A/HRC/11/25, 3 March 09, paras. 63, 114(1).

[3] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. V(1).[CMS 120731]

[4] The following chart excludes declarations or reservations made in connection to the status of Hong Kong and Macau.